



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART I

TRADE UNIONS

CHAPTER III

TRADE UNION ADMINISTRATION

Register of members' names and addresses

24 Duty to maintain register of members' names and addresses

- (1) A trade union shall compile and maintain a register of the names and addresses of its members, and shall secure, so far as is reasonably practicable, that the entries in the register are accurate and are kept up-to-date.
- (2) The register may be kept by means of a computer.
- (3) A trade union shall—
 - (a) allow any member, upon reasonable notice, to ascertain from the register, free of charge and at any reasonable time, whether there is an entry on it relating to him; and
 - (b) if requested to do so by any member, supply him as soon as reasonably practicable, either free of charge or on payment of a reasonable fee, with a copy of any entry on the register relating to him.
- (4) Any duty falling upon a branch under this section by reason of its being a trade union shall be treated as having been discharged to the extent to which the union of which it is a branch has discharged the duty instead.

- (5) For the purposes of this section a member's address means either his home address or another address which he has requested the union in writing to treat as his postal address.
- (6) The remedy for failure to comply with the requirements of this section is by way of application under section 25 (to the Certification Officer) or section 26 (to the court).

The making of an application to the Certification Officer does not prevent the applicant, or any other person, from making an application to the court in respect of the same matter.

25 Remedy for failure: application to Certification Officer

- (1) A member of a trade union who claims that the union has failed to comply with any of the requirements of section 24 (duties with respect to register of members' names and addresses) may apply to the Certification Officer for a declaration to that effect.
- (2) On an application being made to him, the Certification Officer shall—
- (a) make such enquiries as he thinks fit, and
 - (b) where he considers it appropriate, give the applicant and the trade union an opportunity to be heard,
- and may make or refuse the declaration asked for.
- (3) If he makes a declaration he shall specify in it the provisions with which the trade union has failed to comply.
- (4) Where he makes a declaration and is satisfied 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 that the union has agreed to take such steps, he shall specify those steps in the declaration.
- (5) Whether he makes or refuses a declaration, he shall give reasons for his decision in writing; and the reasons may be accompanied by written observations on any matter arising from, or connected with, the proceedings.
- (6) In exercising his functions under this section the Certification Officer shall ensure that, so far as is reasonably practicable, an application made to him is determined within six months of being made.
- (7) Where he requests a person to furnish information to him in connection with enquiries made by him under this section, he shall specify the date by which that information is to be furnished and, unless he considers that it would be inappropriate to do so, shall proceed with his determination of the application notwithstanding that the information has not been furnished to him by the specified date.

26 Remedy for failure: application to court

- (1) A member of a trade union who claims that the union has failed to comply with any of the requirements of section 24 (duties with respect to register of members' names and addresses) may apply to the court for a declaration to that effect.
- (2) If an application in respect of the same matter has been made to the Certification Officer, the court shall have due regard to any declaration, reasons or observations of his which are brought to its notice.

- (3) If the court makes a declaration it shall specify in it the provisions with which the trade union has failed to comply.
- (4) Where the court makes a declaration it shall also, unless it considers that to do so would be inappropriate, make an enforcement order, that 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.
- (5) Where an enforcement order has been made, any 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 he had made the application on which the order was made.
- (6) Without prejudice to any other power of the court, the court may on an application under this section grant such interlocutory relief (in Scotland, such interim order) as it considers appropriate.

Duty to supply copy of rules

27 Duty to supply copy of rules

A trade union shall at the request of any person supply him with a copy of its rules either free of charge or on payment of a reasonable charge.

Accounting records

28 Duty to keep accounting records

- (1) A trade union shall—
 - (a) cause to be kept proper accounting records with respect to its transactions and its assets and liabilities, and
 - (b) establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and remittances.
- (2) Proper accounting records shall not be taken to be kept with respect to the matters mentioned in subsection (1)(a) unless there are kept such records as are necessary to give a true and fair view of the state of the affairs of the trade union and to explain its transactions.

29 Duty to keep records available for inspection

- (1) A trade union shall keep available for inspection from their creation until the end of the period of six years beginning with the 1st January following the end of the period to which they relate such of the records of the union, or of any branch or section of the union, as are, or purport to be, records required to be kept by the union under section 28.

This does not apply to records relating to periods before 1st January 1988.

- (2) In section 30 (right of member to access to accounting records)—

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

- (a) references to a union's accounting records are to any such records as are mentioned in subsection (1) above, and
 - (b) references to records available for inspection are to records which the union is required by that subsection to keep available for inspection.
- (3) The expiry of the period mentioned in subsection (1) above does not affect the duty of a trade union to comply with a request for access made under section 30 before the end of that period.

30 Right of access to accounting records

- (1) A member of a trade union has a right to request access to any accounting records of the union which are available for inspection and relate to periods including a time when he was a member of the union.

In the case of records relating to a branch or section of the union, it is immaterial whether he was a member of that branch or section.

- (2) Where such access is requested the union shall—
- (a) make arrangements with the member for him to be allowed to inspect the records requested before the end of the period of twenty-eight days beginning with the day the request was made,
 - (b) allow him and any accountant accompanying him for the purpose to inspect the records at the time and place arranged, and
 - (c) secure that at the time of the inspection he is allowed to take, or is supplied with, any copies of, or of extracts from, records inspected by him which he requires.
- (3) The inspection shall be at a reasonable hour and at the place where the records are normally kept, unless the parties to the arrangements agree otherwise.
- (4) An “accountant” means a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.
- (5) The union need not allow the member to be accompanied by an accountant if the accountant fails to enter into such agreement as the union may reasonably require for protecting the confidentiality of the records.
- (6) Where a member who makes a request for access to a union's accounting records is informed by the union, before any arrangements are made in pursuance of the request—
- (a) of the union's intention to charge for allowing him to inspect the records to which the request relates, for allowing him to take copies of, or extracts from, those records or for supplying any such copies, and
 - (b) of the principles in accordance with which its charges will be determined,
- then, where the union complies with the request, he is liable to pay the union on demand such amount, not exceeding the reasonable administrative expenses incurred by the union in complying with the request, as is determined in accordance with those principles.
- (7) In this section “member”, in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of the constituent or affiliated organisations.

31 Remedy for failure to comply with request for access

- (1) A person who claims that a trade union has failed in any respect to comply with a request made by him under section 30 may apply to the court.
- (2) Where the court is satisfied that the claim is well-founded, it shall make such order as it considers appropriate for ensuring that that person—
 - (a) is allowed to inspect the records requested,
 - (b) is allowed to be accompanied by an accountant when making the inspection of those records, and
 - (c) is allowed to take, or is supplied with, such copies of, or of extracts from, the records as he may require.
- (3) Without prejudice to any other power of the court, the court may on an application under this section grant such interlocutory relief (in Scotland, such interim order) as it considers appropriate.

Annual return, accounts and audit

32 Annual return

- (1) A trade union shall send to the Certification Officer as respects each calendar year a return relating to its affairs.
- (2) The annual return shall be in such form and be signed by such persons as the Certification Officer may require and shall be sent to him before 1st June in the calendar year following that to which it relates.
- (3) The annual return shall contain—
 - (a) the following accounts—
 - (i) revenue accounts indicating the income and expenditure of the trade union for the period to which the return relates,
 - (ii) a balance sheet as at the end of that period, and
 - (iii) such other accounts as the Certification Officer may require,each of which must give a true and fair view of the matters to which it relates,
 - (b) a copy of the report made by the auditor or auditors of the trade union on those accounts and such other documents relating to those accounts and such further particulars as the Certification Officer may require, and
 - (c) a copy of the rules of the trade union as in force at the end of the period to which the return relates;and shall have attached to it a note of all the changes in the officers of the union and of any change in the address of the head or main office of the union during the period to which the return relates.
- (4) The Certification Officer may, if in any particular case he considers it appropriate to do so—
 - (a) direct that the period for which a return is to be sent to him shall be a period other than the calendar year last preceding the date on which the return is sent;
 - (b) direct that the date before which a return is to be sent to him shall be such date (whether before or after 1st June) as may be specified in the direction.

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

- (5) A trade union shall at the request of any person supply him with a copy of its most recent return either free of charge or on payment of a reasonable charge.
- (6) The Certification Officer shall at all reasonable hours keep available for public inspection either free of charge or on payment of a reasonable charge, copies of all annual returns sent to him under this section.

33 Duty to appoint auditors

- (1) A trade union shall in respect of each accounting period appoint an auditor or auditors to audit the accounts contained in its annual return.
- (2) An “accounting period” means any period in relation to which it is required to send a return to the Certification Officer.

34 Eligibility for appointment as auditor

- (1) A person is not qualified to be the auditor or one of the auditors of a trade union unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.
- (2) Two or more persons who are not so qualified may act as auditors of a trade union in respect of an accounting period if—
 - (a) the receipts and payments in respect of the union’s last preceding accounting period did not in the aggregate exceed £5,000,
 - (b) the number of its members at the end of that period did not exceed 500, and
 - (c) the value of its assets at the end of that period did not in the aggregate exceed £5,000.
- (3) Where by virtue of subsection (2) persons who are not qualified as mentioned in subsection (1) act as auditors of a trade union in respect of an accounting period, the Certification Officer may (during that period or after it comes to an end) direct the union to appoint a person who is so qualified to audit its accounts for that period.
- (4) The Secretary of State may by regulations—
 - (a) substitute for any sum or number specified in subsection (2) such sum or number as may be specified in the regulations; and
 - (b) prescribe what receipts and payments are to be taken into account for the purposes of that subsection.

Any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (5) None of the following shall act as auditor of a trade union—
 - (a) an officer or employee of the trade union or of any of its branches or sections;
 - (b) a person who is a partner of, or in the employment of, or who employs, such an officer or employee;
 - (c) a body corporate.

References in this subsection to an officer shall be construed as not including an auditor.

35 Appointment and removal of auditors

- (1) The rules of every trade union shall contain provision for the appointment and removal of auditors.

But the following provisions have effect notwithstanding anything in the rules.

- (2) An auditor of a trade union shall not be removed from office except by resolution passed at a general meeting of its members or of delegates of its members.
- (3) An auditor duly appointed to audit the accounts of a trade union shall be re-appointed as auditor for the following accounting period, unless—
- (a) a resolution has been passed at a general meeting of the trade union appointing somebody instead of him or providing expressly that he shall not be re-appointed, or
 - (b) he has given notice to the trade union in writing of his unwillingness to be re-appointed, or
 - (c) he is ineligible for re-appointment, or
 - (d) he has ceased to act as auditor by reason of incapacity.
- (4) Where notice has been given of an intended resolution to appoint somebody in place of a retiring auditor but the resolution cannot be proceeded with at the meeting because of the death or incapacity of that person, or because he is ineligible for the appointment, the retiring auditor need not automatically be re-appointed.
- (5) The references above to a person being ineligible for appointment as auditor of a trade union are to his not being qualified for the appointment in accordance with subsections (1) to (6) of section 34 or being precluded by subsection (7) of that section from acting as its auditor.
- (6) The Secretary of State may make provision by regulations as to the procedure to be followed when it is intended to move a resolution—
- (a) appointing another auditor in place of a retiring auditor, or
 - (b) providing expressly that a retiring auditor shall not be re-appointed,
- and as to the rights of auditors and members of the trade union in relation to such a motion.
- Any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Where regulations under subsection (6)—
- (a) require copies of any representations made by a retiring auditor to be sent out, or
 - (b) require any such representations to be read out at a meeting,
- the court, on the application of the trade union or of any other person, may dispense with the requirement if satisfied that the rights conferred on the retiring auditor by the regulations are being abused to secure needless publicity for defamatory matter.
- (8) On such an application the court may order the costs or expenses of the trade union to be paid, in whole or in part, by the retiring auditor, whether he is a party to the application or not.

36 Auditors' report

- (1) The auditor or auditors of a trade union shall make a report to it on the accounts audited by him or them and contained in its annual return.
- (2) The report shall state whether, in the opinion of the auditor or auditors, the accounts give a true and fair view of the matters to which they relate.
- (3) It is the duty of the auditor or auditors in preparing their report to carry out such investigations as will enable them to form an opinion as to—
 - (a) whether the trade union has kept proper accounting records in accordance with the requirements of section 28,
 - (b) whether it has maintained a satisfactory system of control over its transactions in accordance with the requirements of that section, and
 - (c) whether the accounts to which the report relates agree with the accounting records.
- (4) If in the opinion of the auditor or auditors the trade union has failed to comply with section 28, or if the accounts do not agree with the accounting records, the auditor or auditors shall state that fact in the report.

37 Rights of auditors

- (1) Every auditor of a trade union—
 - (a) has a right of access at all times to its accounting records and to all other documents relating to its affairs, and
 - (b) is entitled to require from its officers, or the officers of any of its branches or sections, such information and explanations as he thinks necessary for the performance of his duties as auditor.
- (2) If an auditor fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of an audit, he shall state that fact in his report.
- (3) Every auditor of a trade union is entitled—
 - (a) to attend any general meeting of its members, or of delegates of its members, and to receive all notices of and other communications relating to any general meeting which any such member or delegate is entitled to receive, and
 - (b) to be heard at any meeting which he attends on any part of the business of the meeting which concerns him as auditor.

Members' superannuation schemes

38 Members' superannuation schemes: separate fund to be maintained

- (1) In the following provisions a “members' superannuation scheme” means any scheme or arrangement made by or on behalf of a trade union (including a scheme or arrangement shown in the rules of the union) in so far as it provides—
 - (a) for benefits to be paid by way of pension (including any widows' or children's pensions or dependants' pensions) to or in respect of members or former members of the trade union, and

- (b) for those benefits to be so paid either out of the funds of the union or under an insurance scheme maintained out of those funds.
- (2) A trade union shall not maintain a members' superannuation scheme unless it maintains a separate fund for the payment of benefits in accordance with the scheme.
- A “separate fund” means a fund separate from the general funds of the trade union.

39 Examination of proposals for new scheme

- (1) A trade union shall not begin to maintain a members' superannuation scheme unless, before the date on which the scheme begins to be maintained—
- (a) the proposals for the scheme have been examined by an appropriately qualified actuary, and
 - (b) a copy of a report made to the trade union by the actuary on the results of his examination of the proposals, signed by the actuary, has been sent to the Certification Officer.
- (2) The actuary's report shall state—
- (a) whether in his opinion the premium or contribution rates will be adequate,
 - (b) whether the accounting or funding arrangements are suitable, and
 - (c) whether in his opinion the fund for the payment of benefits will be adequate.
- (3) A copy of the actuary's report shall, on the application of any of the union's members, be supplied to him free of charge.

40 Periodical re-examination of existing schemes

- (1) Where a trade union maintains a members' superannuation scheme, it shall arrange for the scheme to be examined periodically by an appropriately qualified actuary and for a report to be made to it by the actuary on the result of his examination.
- (2) The examination shall be of the scheme as it has effect at such date as the trade union may determine, not being more than five years after the date by reference to which the last examination or, as the case may be, the examination of the proposals for the scheme was carried out.
- (3) The examination shall include a valuation (as at the date by reference to which the examination is carried out) of the assets comprised in the fund maintained for the payment of benefits and of the liabilities falling to be discharged out of it.
- (4) The actuary's report shall state—
- (a) whether in his opinion the premium or contribution rates are adequate,
 - (b) whether the accounting or funding arrangements are suitable, and
 - (c) whether in his opinion the fund for the payment of benefits is adequate.
- (5) A copy of the report, signed by the actuary, shall be sent to the Certification Officer.
- (6) The trade union shall make such arrangements as will enable the report to be sent to the Certification Officer within a year of the date by reference to which the examination was carried out.
- (7) A copy of the actuary's report shall, on the application of any of the union's members, be supplied to him free of charge.

41 Powers of the Certification Officer

- (1) The Certification Officer may, on the application of a trade union—
- (a) exempt a members' superannuation scheme which the union proposes to maintain from the requirements of section 39 (examination of proposals for new scheme), or
 - (b) exempt a members' superannuation scheme which the union maintains from the requirements of section 40 (periodical re-examination of scheme),
- if he is satisfied that, by reason of the small number of members to which the scheme is applicable or for any other special reasons, it is unnecessary for the scheme to be examined in accordance with those provisions.
- (2) An exemption may be revoked if it appears to the Certification Officer that the circumstances by reason of which it was granted have ceased to exist.
- (3) Where an exemption is revoked under subsection (1)(b), the date as at which the next periodical examination is to be carried out under section 40 shall be such as the Certification Officer may direct.
- (4) The Certification Officer may in any case direct that section 40 (periodical re-examination of schemes) shall apply to a trade union with the substitution for the reference to five years of a reference to such shorter period as may be specified in the direction.

42 Meaning of “appropriately qualified actuary”

In sections 39 and 40 an “appropriately qualified actuary” means a person who is either—

- (a) a Fellow of the Institute of Actuaries, or
- (b) a Fellow of the Faculty of Actuaries,

or is approved by the Certification Officer on the application of the trade union as a person having actuarial knowledge.

*Supplementary***43 Newly-formed trade unions**

- (1) The following provisions of this Chapter do not apply to a trade union which has been in existence for less than twelve months—
- (a) section 27 (duty to supply copy of rules),
 - (b) sections 32 to 37 (annual return, accounts and audit), and
 - (c) sections 38 to 42 (members' superannuation schemes).
- (2) Sections 24 to 26 (register of members' names and addresses) do not apply to a trade union until more than one year has elapsed since its formation (by amalgamation or otherwise).

For this purpose the date of formation of a trade union formed otherwise than by amalgamation shall be taken to be the date on which the first members of the executive of the union are first appointed or elected.

44 Discharge of duties in case of union having branches or sections

- (1) The following provisions apply where a trade union consists of or includes branches or sections.
- (2) Any duty falling upon the union in relation to a branch or section under the provisions of—
 - section 28 (duty to keep accounting records),
 - sections 32 to 37 (annual return, accounts and audit), or
 - sections 38 to 42 (members' superannuation schemes),shall be treated as discharged to the extent to which a branch or section discharges it instead of the union.
- (3) In sections 29 to 31 (right of member to access to accounting records) references to a branch or section do not include a branch or section which is itself a trade union.
- (4) Any duty falling upon a branch or section by reason of its being a trade union under—
 - section 24 (register of members' names and addresses),
 - section 28 (duty to keep accounting records),
 - sections 32 to 37 (annual return, accounts and audit), or
 - section 38 to 42 (members' superannuation schemes),shall be treated as discharged to the extent to which the union of which it is a branch or section discharges the duty instead of it.

45 Offences

- (1) If a trade union refuses or wilfully neglects to perform a duty imposed on it by or under any of the provisions of—
 - section 27 (duty to supply copy of rules),
 - sections 28 to 30 (accounting records),
 - sections 32 to 37 (annual return, accounts and audit), or
 - sections 38 to 42 (members' superannuation schemes),it commits an offence.
- (2) The offence shall be deemed to have been also committed by—
 - (a) every officer of the trade union who is bound by the rules of the union to discharge on its behalf the duty breach of which constitutes the offence, or
 - (b) if there is no such officer, every member of the general committee of management of the union.
- (3) In any proceedings brought against an officer or member by virtue of subsection (2) in respect of a breach of duty, it is a defence for him to prove that he had reasonable cause to believe, and did believe, that some other person who was competent to discharge that duty was authorised to discharge it instead of him and had discharged it or would do so.
- (4) A person who wilfully alters or causes to be altered a document which is required for the purposes of any of the provisions mentioned in subsection (1), with intent to falsify the document or to enable a trade union to evade any of those provisions, commits an offence.
- (5) A person guilty of an offence under this section is liable on summary conviction—

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

- (a) in the case of an offence under subsection (1), to a fine not exceeding level 3 on the standard scale;
- (b) in the case of an offence under subsection (4), to a fine not exceeding level 5 on the standard scale.