



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

## 2014 CHAPTER 4

### PART 3

#### TRADE UNIONS' REGISTERS OF MEMBERS

#### **41 Duty to appoint an assurer etc**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- (2) After section 24ZA (which is inserted by section 40) insert—

#### **“24ZB Duty to appoint an assurer**

- (1) A trade union required to maintain a register of the names and addresses of its members by section 24 must, in relation to each reporting period, appoint a qualified independent person to be an assurer in relation to that period.
- (2) There is incorporated in the assurer's appointment a duty which the assurer owes to the trade union—
  - (a) to provide to the union a membership audit certificate in relation to the reporting period which accords with the requirements of section 24ZD, and
  - (b) to carry out such enquiries as the assurer considers necessary to enable the assurer to provide that certificate.
- (3) A person is a “qualified independent person” if—

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*Changes to legislation: There are currently no known outstanding effects for the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, Section 41. (See end of Document for details)*

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- (a) the person either satisfies such conditions as may be specified for the purposes of this section by order of the Secretary of State or is specified by name in such an order, and
  - (b) the trade union has no grounds for believing that—
    - (i) the person will carry out an assurer's functions otherwise than competently, or
    - (ii) the person's independence in relation to the union might reasonably be called into question.
- (4) None of the following may act as an assurer—
- (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.
- (5) This section does not apply to a trade union in relation to a reporting period if the number of its members at the end of the preceding reporting period did not exceed 10,000.
- (6) Any order under this section is to be made by statutory instrument and is to be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **24ZC Appointment and removal of an assurer**

- (1) The rules of every trade union to which section 24ZB applies must contain provision for the appointment and removal of an assurer.
- But the following provisions have effect notwithstanding anything in the rules.
- (2) An assurer must not be removed from office except by resolution passed at a general meeting of the members of the union or of delegates of its members.
- (3) A person duly appointed as an assurer in relation to a reporting period must be reappointed as assurer in relation to the following reporting period, unless—
- (a) a resolution has been passed at a general meeting of the trade union appointing somebody else instead or providing expressly that the person is not to be re-appointed,
  - (b) the person has given notice to the union in writing of the person's unwillingness to be re-appointed,
  - (c) the person is not qualified for the appointment in accordance with section 24ZB, or
  - (d) the person has ceased to act as assurer by reason of incapacity.
- (4) But a person need not automatically be re-appointed where—
- (a) the person is retiring,
  - (b) notice has been given of an intended resolution to appoint somebody else instead, and
  - (c) that resolution cannot be proceeded with at the meeting because of the death or incapacity of the proposed replacement.

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**Changes to legislation:** There are currently no known outstanding effects for the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, Section 41. (See end of Document for details)

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### **24ZD Requirements of assurer's membership audit certificate**

- (1) For the purposes of section 24ZB(2)(a) the requirements of a membership audit certificate in relation to a reporting period provided by an assurer are as follows.
- (2) The certificate must state the name of, and be signed by, the assurer.
- (3) The certificate must state—
  - (a) whether, in the assurer's opinion, the trade union's system for compiling and maintaining the register of the names and addresses of its members was satisfactory for the purposes of complying with the union's duties under section 24(1) throughout the reporting period, and
  - (b) whether, in the assurer's opinion, the assurer has obtained the information and explanations which the assurer considers necessary for the performance of the assurer's functions.
- (4) If the certificate states that—
  - (a) in the assurer's opinion, the trade union's system for compiling and maintaining the register was not satisfactory for the purposes of complying with the union's duties under section 24(1) throughout the reporting period, or
  - (b) in the assurer's opinion, the assurer has failed to obtain the information and explanations which the assurer considers necessary for the performance of the assurer's functions,the certificate must state the assurer's reasons for making that statement.
- (5) In the case of a failure to obtain information or explanations as described in subsection (4)(b), the certificate must also—
  - (a) provide a description of the information or explanations requested or required which have not been obtained, and
  - (b) state whether the assurer required that information or those explanations from the union's officers, or officers of any of its branches or sections, under section 24ZE.
- (6) The reference in subsection (2) to signature by the assurer is, where that office is held by a body corporate or partnership, to signature in the name of the body corporate or partnership by an individual authorised to sign on its behalf.

### **24ZE Rights of assurer**

- (1) An assurer appointed by a trade union under section 24ZB—
  - (a) has a right of access at all reasonable times to the register of the names and addresses of the union's members and to all other documents which the assurer considers may be relevant to whether the union has complied with any of the requirements of section 24(1), and
  - (b) is entitled to require from the union's officers, or the officers of any of its branches or sections, such information and explanations as the assurer considers necessary for the performance of the assurer's functions.

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- (2) In subsection (1) references to documents include information recorded in any form.

#### **24ZF Duty to inform the Certification Officer**

If an assurer provides a membership audit certificate in relation to a reporting period to a trade union which states that, in the assurer's opinion—

- (a) the union's system for compiling and maintaining the register was not satisfactory for the purposes of complying with the union's duties under section 24(1) throughout that period, or
- (b) the assurer has failed to obtain the information and explanations which the assurer considers necessary for the performance of the assurer's functions,

the assurer must send a copy of the certificate to the Certification Officer as soon as is reasonably practicable after it is provided to the union.

#### **24ZG Duty of confidentiality**

- (1) The duty of confidentiality as respects the register is incorporated in an assurer's appointment by a trade union under section 24ZB.
- (2) The duty of confidentiality as respects the register is a duty which the assurer owes to the union—
  - (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.
- (3) 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 an inspector appointed by the Officer,
  - (d) where it is required for the purposes of the discharge of any of the functions of the assurer, or
  - (e) where it is required for the purposes of the investigation of crime or criminal proceedings.”
- (3) In section 24A(3) (securing confidentiality of register during ballots), after “duty of confidentiality” insert “, in the context of a scrutineer or independent person, ”.
- (4) In section 44(4) (discharge of duties in case of union having branches or sections), at the appropriate place in the list insert— “ sections 24ZB and 24ZC (duty to appoint an assurer etc), ”.
- (5) In section 299 (index of defined expressions), in the entry for “the duty of confidentiality”, after “confidentiality” insert “, in the context of a scrutineer or independent person ”.

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#### Commencement Information

- I1** S. 41 partly in force; s. 41 in force for certain purposes at Royal Assent, see s. 45(3)(c)
- I2** S. 41 in force at 6.4.2015 in so far as not already in force and with application in accordance with art. 3 by S.I. 2015/717, **art. 3(1)(b)** (with art. 3(2))

**Changes to legislation:**

There are currently no known outstanding effects for the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, Section 41.