



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART I

#### TRADE UNIONS

#### CHAPTER III

##### TRADE UNION ADMINISTRATION

##### *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.