



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART I

TRADE UNIONS

CHAPTER III

TRADE UNION ADMINISTRATION

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,
 - ^[F1](aa) details of the salary paid to and other benefits provided to or in respect of—
 - (i) each member of the executive,

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- (ii) the president, and
(iii) the general secretary,
by the trade union during the period to which the return 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, ^{F2} . . .
- (c) a copy of the rules of the trade union as in force at the end of the period to which the return relates [^{F3}, and
- (d) in the case of a trade union required to maintain a register by section 24, a statement of the number of names on the register as at the end of the period to which the return relates and the number of those names which were not accompanied by an address which is a member’s address for the purposes of that section,]
- 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.
- (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.
- [^{F4}(7) For the purposes of this section and section 32A “member of the executive” includes any person who, under the rules or practice of the union, may attend and speak at some or all of the meetings of the executive, otherwise than for the purpose of providing the committee with factual information or with technical or professional advice with respect to matters taken into account by the executive in carrying out its functions.]

Textual Amendments

- F1** S. 32(3)(aa) inserted (1.1.1994) by 1993 c. 19, s. 8(a); S.I. 1993/1908, art. 2(3), **Sch. 3**
- F2** Word in s. 32(3) repealed (1.1.1994) by 1993 c. 19, s. 51, **Sch.10**; S.I. 1993/1908, art. 2(3), **Sch. 3**
- F3** S. 32(3)(d) and the word preceding it inserted (1.1.1994) by 1993 c. 19, s. 8(b); S.I. 1993/1908, art. 2(3), **Sch.3**
- F4** S. 32(7) inserted (1.1.1994) by 1993 c. 19, s. 49(2), **Sch. 8 para.42**; S.I. 1993/1908, art. 2(3), **Sch. 3**

[^{F5}32A Statement to members following annual return.

- (1) A trade union shall take all reasonable steps to secure that, not later than the end of the period of eight weeks beginning with the day on which the annual return of the union is sent to the Certification Officer, all the members of the union are provided with the statement required by this section by any of the methods allowed by subsection (2).

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- (2) Those methods are—
- (a) the sending of individual copies of the statement to members; or
 - (b) any other means (whether by including the statement in a publication of the union or otherwise) which it is the practice of the union to use when information of general interest to all its members needs to be provided to them.
- (3) The statement required by this section shall specify—
- (a) the total income and expenditure of the trade union for the period to which the return relates,
 - (b) how much of the income of the union for that period consisted of payments in respect of membership,
 - (c) the total income and expenditure for that period of any political fund of the union, and
 - (d) the salary paid to and other benefits provided to or in respect of—
 - (i) each member of the executive,
 - (ii) the president, and
 - (iii) the general secretary,by the trade union during that period.
- (4) The requirement imposed by this section is not satisfied if the statement specifies anything inconsistent with the contents of the return.
- (5) The statement—
- (a) shall also set out in full the report made by the auditor or auditors of the union on the accounts contained in the return and state the name and address of that auditor or of each of those auditors, and
 - (b) may include any other matter which the union considers may give a member significant assistance in making an informed judgment about the financial activities of the union in the period to which the return relates.
- (6) The statement—
- (a) shall also include the following statement—

"A member who is concerned that some irregularity may be occurring, or have occurred, in the conduct of the financial affairs of the union may take steps with a view to investigating further, obtaining clarification and, if necessary, securing regularisation of that conduct.

The member may raise any such concern with such one or more of the following as it seems appropriate to raise it with: the officials of the union, the trustees of the property of the union, the auditor or auditors of the union, the Certification Officer (who is an independent officer appointed by the Secretary of State) and the police.

Where a member believes that the financial affairs of the union have been or are being conducted in breach of the law or in breach of rules of the union and contemplates bringing civil proceedings against the union or responsible officials or trustees, he may apply for material assistance from the Commissioner for the Rights of Trade Union Members and should, in any case, consider obtaining independent legal advice."; and

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- (b) may include such other details of the steps which a member may take for the purpose mentioned in the statement set out above as the trade union considers appropriate.
- (7) A trade union shall send to the Certification Officer a copy of the statement which is provided to its members in pursuance of this section as soon as is reasonably practicable after it is so provided.
- (8) Where the same form of statement is not provided to all the members of a trade union, the union shall send to the Certification Officer in accordance with subsection (7) a copy of each form of statement provided to any of them.
- (9) If at any time during the period of two years beginning with the day referred to in subsection (1) any member of the trade union requests a copy of the statement required by this section, the union shall, as soon as practicable, furnish him with such a copy free of charge.]

Textual Amendments

F5 S. 32A inserted (1.1.1994) by 1993 c. 19, s.9; S.I. 1993/1908, art. 2(3), Sch.3

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 ^{MI}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—
- the receipts and payments in respect of the union’s last preceding accounting period did not in the aggregate exceed £5,000,
 - the number of its members at the end of that period did not exceed 500, and
 - 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—
- substitute for any sum or number specified in subsection (2) such sum or number as may be specified in the regulations; and
 - prescribe what receipts and payments are to be taken into account for the purposes of that subsection.

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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.

F6
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Textual Amendments

F6 In s. 34(5), the second sentence repealed (30.8.1993) by 1993 c. 19, ss. 49(1), 51, Sch. 7 para. 18, Sch.10; S.I. 1993/1908 art. 2(1), Sch. 1

Marginal Citations

M1 1989 c. 40.

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 [F7 subsections (1) to (4)] of section 34 or being precluded by [F7 subsection (5)] 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,

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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.

Textual Amendments

- F7** Words in s. 35(5) substituted (30.8.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 19(a)(b)**; S.I. 1993/1908 art. 2(1), Sch.1

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.

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- (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.

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