



House of Commons

Tuesday 27 October 2015

PUBLIC BILL COMMITTEE PROCEEDINGS

TRADE UNION BILL

[NINTH AND TENTH SITTINGS]

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Negated on division 101

Clause 13, page 9, line 31, at end insert—

“(c) Save that no such regulation shall have the effect of altering, in respect of any of the matters to which the reserve powers may be directed, any provision of a contract of employment or a collective agreement or of limiting an employer’s discretion as to the contents of contracts of employment or collective agreements to which the employer is a party”.

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Not called 102

Clause 13, page 9, line 45, leave out paragraph (b)

Chris Stephens [R]
 Dr Lisa Cameron [R]

Negated on division 85

Clause 13, page 10, line 44, at end insert—

“(14) For the avoidance of doubt, the powers in this section shall only apply with the consent of the Scottish Government, Welsh Government, Northern Ireland Executive, the Mayor of London and Local Authorities in England in their areas of responsibility.”

Clause agreed to on division.

Trade Union Bill, *continued*

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Withdrawn 53

Clause 14, page 11, line 7, leave out subsection (2)

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Withdrawn 54

Clause 14, page 11, line 9, leave out subsection (3)

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Not called 55

Clause 14, page 11, line 11, at end insert—

“(4) For the purposes of this section and the Schedules to which it gives effect complainant and applicant must be—

(a) a member of the union which is the subject of the complaint or application.”

Chris Stephens [R]
 Dr Lisa Cameron [R]

Not called 86

Clause 14, page 11, line 11, at end insert—

“(4) This section and the Schedules it inserts shall not apply in Scotland.”

Clause agreed to on division.

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Not called 66

Schedule 1, page 17, line 7, leave out “or any other person”

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Negatived on division 67

Schedule 1, page 17, line 47, after “obligation,” insert “where a complaint has been received from a member of the relevant trade union, and where there the Certification Officer reasonably believes there is evidence that indicates a breach of a relevant obligation”

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Not called 68

Schedule 1, page 18, line 1, leave out “or other persons”

Trade Union Bill, continued

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called 69

Schedule 1, page 18, line 4, at end insert—

“(b) to take representations from the trade union or unions who are the subject of such an investigation”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called 70

Schedule 1, page 19, line 4, after “Certification Officer”, insert “and the trade union or unions who are the subject of such an investigation”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called 71

Schedule 1, page 19, line 7, after “Officer”, insert “and the trade union or unions who are the subject of such an investigation”

Schedule agreed to on division.

Schedule 2 agreed to on division.

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called 56

Clause 15, page 11, line 16, after “32ZB”, insert “and where a valid complaint has been made by a member of the trade union or unions relevant”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called 57

Clause 15, page 12, leave out lines 16 to 19

Nick Boles

Agreed to 94

Clause 15, page 12, line 23, at end insert—

“() In section 45D of that Act (appeals from Certification Officer), after “31” insert “, 32ZC”.”

Chris Stephens [R]
Dr Lisa Cameron [R]

Not called 87

Clause 15, page 12, line 23, at end insert—

“(4) This section shall not apply in Scotland.”

Trade Union Bill, *continued*

Clause, as amended, agreed to on division.

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called **58**

Clause 16, page 13, line 3, leave out “the applicant or a person mentioned in subsection (5B)”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called **59**

Clause 16, page 13, line 6, leave out “or the applicant”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called **60**

Clause 16, page 13, line 9, leave out “the applicant or a person mentioned in subsection (6)”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called **61**

Clause 16, page 13, line 12, leave out “the applicant or a person mentioned in subsection (5C)”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called **62**

Clause 16, page 13, line 15, leave out “the applicant or a person mentioned in subsection (8)”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called **63**

Clause 16, page 13, line 18, leave out “the applicant or a person mentioned in subsection (5C)”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called **64**

Clause 16, page 13, line 21, leave out “the complainant or a person mentioned in subsection (4A)”

Trade Union Bill, continued

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Not called **65**

Clause 16, page 13, line 25, leave out “the applicant or a person mentioned in subsection (7)”

Chris Stephens [R]
 Dr Lisa Cameron [R]

Not called **88**

Clause 16, page 13, line 26, at end insert—
 “(5) This section and the Schedule it inserts shall not apply in Scotland.”

Clause agreed to on division.

Schedule 3, agreed to on division.

Nick Boles

Agreed to on division **95**

Clause 17, page 14, line 1, leave out “(b) payments made by ACAS under section 254(6),”

Chris Stephens [R]
 Dr Lisa Cameron [R]

Not called **89**

Clause 17, page 14, line 43, at end insert—
 “(11) Trade union members resident in Scotland shall not be required through their union to contribute to a levy imposed by this section.”

Clause, as amended, agreed to on division.

Clause 18, agreed to on division.

Nick Boles

Agreed to **96**

Schedule 4, page 29, line 11, at end insert—
 “ In section 93 of the 1992 Act (effect of amalgamation), after subsection (2) insert—

“(2A) Where—

(a) subsection (1) applies, and

(b) at the time of the amalgamation there has already been a renewal date under section 84 for one or more of the amalgamating unions,

the first renewal date under that section for the amalgamated union is the earliest date after that time which would (but for the amalgamation) have been the first renewal date for any of the amalgamating unions.””

Trade Union Bill, *continued*

Nick Boles

Agreed to 97

Schedule 4, page 29, line 39, at end insert—

- “(1) Section 254 of the 1992 Act (certification officer) is amended as follows.
- (2) In subsection (5A) omit “Subject to subsection (6),”.
- (3) Omit subsection (6).”

Nick Boles

Agreed to 111

Schedule 4, page 30, line 29, leave out from “subsection (6)” to end of line 30 and insert—

- “(a) omit “24C,”;
- (b) at the end insert “and after “45C” insert “or paragraph 5 of Schedule A3”.”

Schedule, as amended, agreed to on division.

Clause 19, agreed to on division.

Clause 20, agreed to on division.

Clause 21, agreed to on division.

Clause 22, agreed to on division.

NEW CLAUSES

Nick Boles

Agreed to on division NC11

To move the following Clause—

“Prohibition on deduction of union subscriptions from wages in public sector

- (1) After section 116A of the 1992 Act insert—

“Deduction of trade union subscriptions from wages

116B Prohibition on deduction of union subscriptions from wages in public sector

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- (1) No relevant public sector employer may make trade union subscription deductions from wages payable to workers.

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- (2) An employer is a relevant public sector employer if the employer is a public authority specified, or of a description specified, in regulations made by a Minister of the Crown.

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- (3) A Minister of the Crown may by regulations provide, in relation to a body or other person that is not a public authority but has functions of a public nature and is funded wholly or partly from public funds, that the body or other person is to be treated as a public authority for the purposes of this section.

Trade Union Bill, *continued*

- (4) Regulations under this section may make provision specifying the person or other entity that is to be treated for the purposes of this section as the employer of a person who is employed by the Crown.
- (5) The regulations may—
- 20 (a) deem a category of persons holding an office or employment under the Crown (or two or more such categories taken together) to be an entity for the purposes of provision made under subsection (4);
- 25 (b) make different provision under subsection (4) for different categories of persons holding an office or employment under the Crown.
- (6) Regulations under this section may—
- 30 (a) make different provision for different purposes;
- (b) make transitional provision in connection with the coming into force of any provision of the regulations;
- (c) make consequential provision amending or otherwise modifying contracts of employment or collective agreements.
- (7) Regulations under this section are to be made by statutory instrument.
- 35 (8) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (9) In this section—
- 40 “trade union subscription deductions” means deductions representing payments to a trade union in respect of a worker’s membership of the union;
- “wages” has the same meaning as in Part 2 of the Employment Rights Act 1996 (see section 27);
- “worker” has the same meaning as in that Act.”
- 45 (2) In section 296 of that Act (meaning of “worker” and related expressions), in subsection (3), after “68(4),” insert “116B(9),”.

As an Amendment to Nick Boles’s proposed New Clause (*Prohibition on deduction of union subscriptions from wages in public sector*) (NC11):—

Chris Stephens [R]
Dr Lisa Cameron [R]

Negatived on division (a)

Line 43, at end insert—

- “(10) The provisions in this section shall only apply with the consent of the Scottish Government, Welsh Government, Northern Ireland Executive, the Mayor of London and local authorities in England in their areas of responsibility.”

Trade Union Bill, *continued*

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Not called NCI

To move the following Clause—

“Voting by electronic means in trade union ballots for industrial action

- (1) Trade union members shall be permitted to vote by electronic means for the purposes of Part V of the 1992 Act (Industrial Action) with effect from the commencement date for sections 2 and 3.
- (2) In this section “electronic means” means such electronic means, including means of secure voting electronically in the workplace, as is, or are determined by the union and, in a case in which section 226B of the 1992 Act (Appointment of Scrutineer) imposes an obligation on the union, confirmed by the person appointed in accordance with that section, before the opening day of the ballot as meeting the required standard.
- (3) Where electronic means are determined by the union, and, if applicable, confirmed by the person appointed under section 226B of the Act as meeting the required standard as provided for in subsection (2), the means of voting in the ballot shall also include postal voting where determined by the union and, in a case in which section 226B of the 1992 Act (Appointment of Scrutineer) imposes an obligation on the union, confirmed by the person appointed in accordance with that section as being reasonably necessary to ensure that the required standard is satisfied.
- (4) For the purpose of subsections (2) and (3), a means of electronic voting satisfies “the required standard” for the ballot if, so far as reasonably practicable:
 - (a) those entitled to vote have an opportunity to do so;
 - (b) votes cast are secret; and
 - (c) the risk of any unfairness or malpractice is minimised.
- (5) In relation to the ballots referred to in subsection (1):
 - (a) the employer shall be under a duty to co-operate generally in connection with the ballot with the union, which shall include not undertaking surveillance of, intercepting or otherwise interfering with any communications between the union and its members, and with any person appointed in accordance with section 226B of the 1992 Act (Appointment of Scrutineer); and
 - (b) every person who is entitled to vote in the ballot shall be permitted to do so without interference or constraint imposed by any employer of the union’s members, or any of its employees or any person its behalf.
- (6) Where in any proceedings an employer claims, or will claim, that a union has failed to comply with any requirement referred to in section 226 of the 1992 Act (Requirement of ballot before action by trade union), the union will have a complete defence to those proceedings if the employer has failed to comply with any part of its duty under subsection (5)(a) or it, or any of its employees or any person on its behalf, has imposed any interference or constraint of a type referred to in subsection (5)(b).
- (7) Any provision of the Act shall be disapplied to the extent necessary to give effect to this section.”

Trade Union Bill, *continued*

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called NC2

To move the following Clause—

“Voting by electronic means in trade union ballots

- (1) The provisions in section [new clause 2] apply to ballots and elections for the purposes of Chapters IV (elections for certain positions), VI (political resolutions) and VII (approval of instruments of amalgamation or transfer) of the 1992 Act.
- (2) The electronic means adopted for the purposes of subsection (1) must also be capable of allowing union members to vote in ballots and elections for the purposes of Chapters IV (elections for certain positions), VI (political resolutions) and VII (approval of instruments of amalgamating or transfer) of the 1992 Act.”

Ms Angela Eagle [R]
Stephen Doughty [R]
Ian Murray [R]

Not called NC4

To move the following Clause—

“Secure workplace ballots for industrial action

- (1) Trade union members shall be permitted to vote in person at their place of work by means of a secure workplace ballot for the purposes of Part V of the 1992 Act (Industrial Action) with effect from the commencement date for sections 2 and 3.
- (2) In this section “secure workplace ballot” means a ballot in which votes may be cast in the workplace by such means as is or are determined by the union. These may, but are not required to, include electronic means and, in a case in which section 226B of the 1992 Act (Appointment of Scrutineer) imposes an obligation on the union to ensure that the required standard is satisfied, confirmed by the person appointed in accordance with that section, before the opening day of the ballot as meeting the required standard.
- (3) For the purpose of subsection (2), a workplace ballot satisfies “the required standard” if, so far as reasonably practicable:
 - (a) those entitled to vote have an opportunity to do so;
 - (b) those entitled to vote can do so in privacy;
 - (c) votes cast are secret; and
 - (d) the risk of any unfairness or malpractice is minimised.
- (4) In relation to the ballots referred to in subsection (1):
 - (a) the employer shall be under a duty to co-operate generally in connection with the ballot with the union, which shall include not undertaking surveillance of, intercepting or otherwise interfering with any communications between the union and its members, and with any person appointed in accordance with section 226B of the 1992 Act (Appointment of Scrutineer); and
 - (b) every person who is entitled to vote in the ballot shall be permitted to do so without interference or constraint imposed by any employer of the union’s members, or any of its employees or any person its behalf.

Trade Union Bill, *continued*

- (5) Where in any proceedings an employer claims, or will claim, that a union has failed to comply with any requirement referred to in section 226 of the 1992 Act (Requirement of ballot before action by trade union), the union will have a complete defence to those proceedings if the employer has failed to comply with any part of its duty under subsection (5)(a) or it, or any of its employees or any person on its behalf, has imposed any interference or constraint of a type referred to in subsection (5)(b).
- (6) Any provision of the Act shall be disapplied to the extent necessary to give effect to this section.”

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Not called NC5

To move the following Clause—

“Workplace balloting and voting for trade union elections and other matters

- (1) The provisions in section [NC4] shall apply to ballots and elections for the purposes of Chapters IV (elections for certain positions), VI (political resolutions) and VII (approval of instruments of amalgamation or transfer) of the 1992 Act.
- (2) The arrangements adopted for the purposes of subsection (1) shall allow union members to vote in workplace ballots for the purposes of Chapters IV (elections for certain positions), VI (political resolutions) and VII (approval of instruments of amalgamating or transfer) of the 1992 Act.”

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Not called NC6

To move the following Clause—

“Methods of voting in ballots for industrial action, trade union elections and other matters

- (1) Voting in a ballot or election carried out to meet the requirements of the 1992 Act as amended can be carried out by postal ballot, electronic means, secure workplace ballot or a combination of these methods.
 - (2) The combination of methods is to be determined by the union and, in a case in which section 226B of the 1992 Act (Appointment of Scrutineer) imposes an obligation on the union, confirmed by the person appointed in accordance with that section, before the opening day of the ballot.”
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Trade Union Bill, *continued*

Chris Stephens [R]
Dr Lisa Cameron [R]

Not called NC7

To move the following Clause—

“Certification Officer

For subsections (2) to (4) of section 254 of the 1992 Act substitute—

- “(2) The Certification Officer shall be appointed by the Judicial Appointments Commission, and the person appointed shall have expertise in trade union law.
- (3) There shall be a Certification Officer for Scotland, equal in status to the Certification Officer in subsections (1) and (2) above.
- (4) The Certification Officer for Scotland shall be appointed by the Judicial Appointments Board for Scotland, and the person appointed shall have expertise in trade union law.””
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Chris Stephens [R]
Dr Lisa Cameron [R]

Not called NC8

To move the following Clause—

“Workplace ballots and ballots by electronic means

- (1) Workplace ballots and balloting by electronic means, shall be permitted in the types of trade union ballots specified in subsection (2) with effect from the commencement date for sections 2 and 3 (Ballot thresholds for industrial action);
- (2) The types of trade union ballots to which subsections (1) and (3) apply are those referred to in Chapters IV (elections for certain positions), V (industrial action), VI (political resolutions) and VII (approval of instruments of amalgamation or transfer).
- (3) In relation to the ballots referred to in subsection (2):
- (a) the employer shall be under a duty to co-operate generally in connection with the ballot with the union, which shall include not undertaking surveillance of, intercepting or otherwise interfering with any communications between the union and its members, and with any person appointed in accordance with section 226B of the Act (Appointment of Scrutineer); and
- (b) every person who is entitled to vote in the ballot shall be permitted to do so without interference or constraint imposed by any employer of the union’s members, or any of its employees or any person its behalf.
- (4) Where in any proceedings an employer claims, or will claim, that a union has failed to comply with any requirement referred to in subsection 226 of the Act (Requirement of ballot before action by trade union), the union will have a complete defence to those proceedings if the employer has failed to comply with any part of its duty under subsection (3)(a) or it, or any of its employees or any person on its behalf, has imposed any interference or constraint of a type referred to in subsection (3)(b).
- (5) In this section:
- (a) “Workplace ballot” means a ballot in which votes may be cast in the workplace by such means as is or are determined by the union. Such

Trade Union Bill, *continued*

means of voting in the workplace determined by the union may, but are not required to, include electronic means; and

- (b) “electronic means” means such electronic means as is or determined by the union and, in each case, where section 226B of the Act (Appointment of Scrutineer) imposes an obligation on the union, is confirmed by the person appointed in accordance with that section, before the opening day of the ballot as meeting the required standard.
- (6) Where electronic means are determined by the union, and, if applicable, confirmed by the person appointed under section 226B of the Act as meeting the required standard as provided for in subsection (5), the means of voting in the ballot shall also include postal voting, or some means of voting in a workplace ballot other than electronic means, where determined by the union and, in a case in which section 226B of the Act imposes an obligation on the union (Appointment of Scrutineer), confirmed by the person appointed in accordance with that section as being reasonably necessary to ensure that the required standard is satisfied.
- (7) For the purpose of subsections (5) and (6), a workplace ballot or means of electronic voting satisfies ‘the required standard’ for the ballot if, so far as reasonably practicable:
 - (a) those entitled to vote have an opportunity to do so;
 - (b) votes cast are secret; and
 - (c) the risk of any unfairness or malpractice is minimised.
- (8) Any provision of the Act shall be disapplied to the extent necessary to give effect to this section.”

Chris Stephens [R]
 Dr Lisa Cameron [R]
 Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Withdrawn NC9

To move the following Clause—

“Statements on Bills affecting Trade Union political funds

- (1) A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill, if the Bill contains provisions which are likely to affect the machinery of Trade Union political funds:
 - (a) make a statement to the effect that the Bill has been introduced with the agreement of the leaders of all the political parties represented in the House of Commons, or
 - (b) make a statement to the effect that the Bill has been introduced without the agreement of the leaders of all the political parties represented in the House of Commons
 as the case may be.
 - (2) The statement must be in writing and be published in such manner as the Minister making it considers appropriate.”
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Trade Union Bill, continued

Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Negated on division NC10

To move the following Clause—

“The Certification Officer

In section 254 of the 1992 Act (The Certification Officer) for subsections (2), (3) and (4) substitute—

“(2) The Certification Officer shall be appointed by the Judicial Appointments Commission, and the person appointed shall have expertise in trade union law.”

Chris Stephens [R]
 Dr Lisa Cameron [R]
 Ms Angela Eagle [R]
 Stephen Doughty [R]
 Ian Murray [R]

Negated on division NC12

To move the following Clause—

“Industrial action and agency workers

- (1) Subject to subsection (3), an employment business shall not introduce or supply a work-seeker to a hirer to perform—
 - (a) the duties normally performed by a worker who is taking part in a strike or other industrial action (“the first worker“), or
 - (b) the duties normally performed by any other worker employed by the hirer and who is assigned by the hirer to perform the duties normally performed by the first worker,
 unless in either case the employment business does not, and has no reasonable grounds for knowing, that the first worker is taking part in a strike or other industrial action.
- (2) Subject to subsection (3) an employer (“the hirer“) shall not procure an employment agency to supply a work-seeker to perform—
 - (a) the duties normally performed by a worker who is taking part in a strike or other industrial action (“the first worker“), or
 - (b) the duties normally performed by any other worker employed by the hirer and who is assigned by the hirer to perform the duties normally performed by the first worker, unless in either case the hirer does not, and has no reasonable grounds for knowing, that the first worker is taking part in a strike or other industrial action.
- (3) Subsections (2) and (3) shall not apply if, in relation to the first workers, the strike or other industrial action in question is an unofficial strike or other unofficial industrial action for the purposes of section 237 of the 1992 Act.
- (4) For the purposes of this section an “employment business” means an employment business as defined by the Employment Agencies Act 1973.
- (5) Breach of the provisions of this section shall be actionable against both the employment business and the hirer for breach of statutory duty.

Trade Union Bill, *continued*

- (6) For the avoidance of doubt, the duty in subsections (1) and (2) above are owed to—
- (a) any worker who is taking part in the strike or industrial action; and
 - (b) any trade union of which such a worker is a member.”

Bill, as amended, to be reported.
