

Trade Union Bill

COMMONS AMENDMENTS

[The page and line references are to HL Bill 74, the bill as first printed for the Lords.]

LORDS AMENDMENT 2

After Clause 3

2 Insert the following new Clause –

“Electronic balloting

Provision for electronic balloting: review and piloting scheme

- (1) The Secretary of State shall commission an independent review, the report of which shall be laid before each House of Parliament, on the delivery of secure methods of electronic balloting for the purpose of ballots held under section 226 of the 1992 Act (requirement of ballot before action by trade union).
- (2) The use of pilot schemes shall be permitted to inform the design and implementation of electronic balloting before it is rolled out across union strike ballots.
- 13 (3) The Secretary of State must consider the report and publish and lay before
14 each House of Parliament a strategy for the rollout of secure electronic
balloting.
- 15 (4) For the purpose of preparing the strategy under subsection (3), the
Secretary of State must consult relevant organisations including
professionals from expert associations to seek their advice and
recommendations.
- (5) The review under subsection (1) shall be commissioned within 6 months of
the passing of this Act.”

COMMONS AGREEMENT AND AMENDMENTS TO THE LORDS AMENDMENT

The Commons agree with Lords Amendment No. 2 and do propose Amendments 2A and 2B thereto –

- 2A** Line 13, leave out from “Parliament” to end of line 14 and insert “his or her response to it”
- 2B** Line 15, leave out “strategy” and insert “response”

LORDS AMENDMENT 7

Clause 10

- 7** Page 5, line 40, leave out from beginning to end of line 36 on page 6 and insert –
- “(1) A person who, after the transition period, joins a trade union that has a political fund at the time the person joins shall, on the trade union membership form (whether paper or electronic), be asked whether or not the person wishes to contribute to the political fund, and informed that the decision shall not affect any other aspects of the person’s membership.
- (2) It shall be unlawful to require a person who joins a trade union after the transition period to make a contribution to any political fund of that trade union if the person has not given to the trade union notice –
- (a) on the membership form (whether paper or electronic), or
- (b) in accordance with subsection (6),
- of the person’s willingness to contribute to that fund.
- (3) It shall be unlawful for any trade union which does not have in force a political resolution under section 73 (political resolution) at the end of the transition period, but which subsequently passes a political resolution under that section, to require a member of the trade union to make a contribution to the political fund if the member has not given notice to the trade union in accordance with subsection (6) of the member’s willingness to contribute to that fund.
- (4) A member of a trade union who contributes to a political fund but wishes to cease contributing to that political fund shall give notice to that effect to the trade union in accordance with subsection (6).
- (5) A member of a trade union who gives notice under subsection (4) shall, after the end of the period of one month beginning with the day on which it is given, no longer be required to contribute to the political fund.
- (6) Notice under subsection (2), (3) or (4) may be given to a trade union by being delivered –
- (a) to the head office of the trade union, or
- (b) to a branch office of the trade union,
- in person, by any authorised agent, by post, or by electronic means.

- (7) The Certification Officer shall, within six months of section 10 of the Trade Union Act 2016 coming into force, issue a code of practice which must set out the minimum level of communications which trade unions with political funds must have every year with political fund contributors about their right to cease contributing to the political fund.
- (8) The Certification Officer must monitor the compliance of trade unions with political funds with the code of practice issued under subsection (7), and shall in their annual report under section 258 (annual report and accounts) set out their findings.
- (9) In this Act “contributor”, in relation to the political fund of a trade union, means a member who makes a contribution to the political fund and has not given notice to the trade union under subsection (4).
- (10) In this section “the transition period” means the period to be specified by the Secretary of State in regulations made by statutory instrument following consultation with the Certification Officer and all trade unions which have a political fund.
- (11) The period to be specified by the Secretary of State under subsection (10) shall be no less than 12 months, and shall start on the day on which section 10 of the Trade Union Act 2016 comes into force.
- (12) A statutory instrument containing regulations under subsection (10) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

LORDS AMENDMENT 8

Clause 10

8 Page 7, line 7, leave out subsections (3) to (5)

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree with Lords Amendments No. 7 and 8, but do propose Amendments 7A, 7B, 7C, 7D, 7E and 7F in lieu –

7A Page 5, line 40, leave out from beginning to end of line 36 on page 6 and insert –

- “(1) It is unlawful to require a member of a trade union to make a contribution to the political fund of a trade union if –
 - (a) the member has not given to the union notice of the member’s willingness to contribute to that fund (an “opt-in notice”); or
 - (b) an opt-in notice given by the member has been withdrawn in accordance with subsection (2).
- (2) A member of a trade union who has given an opt-in notice may withdraw that notice by giving notice to the union (a “withdrawal notice”).
- (3) A withdrawal notice takes effect at the end of the period of one month beginning with the day on which it is given.

- (4) A member of a trade union may give an opt-in notice or a withdrawal notice—
 - (a) by delivering it (either personally or by an authorised agent or by post) at the head office or a branch office of the union;
 - (b) by sending it by e-mail to an address that the union has told its members can be used for sending such notices;
 - (c) by completing an electronic form provided by the union which sets out the notice, and sending it to the union by electronic means in accordance with instructions given by the union; or
 - (d) by such other electronic means as may be prescribed.
- (5) In this Act “contributor”, in relation to the political fund of a trade union, means a member who has given to the union an opt-in notice that has not been withdrawn.””

7B Page 6, line 36, at end insert—

“(1A) After that section insert—

“84A Information to members about contributing to political fund

- (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 notified of their right to give a withdrawal notice under section 84(2).
- (2) The notification may be given —
 - (a) by sending individual copies of it to members; or
 - (b) by any other means (whether by including the notification 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;and, in particular, the notification may be included with the statement required to be given by section 32A.
- (3) A trade union shall send to the Certification Officer a copy of the notification which is provided to its members in pursuance of this section as soon as is reasonably practicable after it is so provided.
- (4) Where the same form of notification is not provided to all the members of a trade union, the union shall send to the Certification Officer in accordance with subsection (3) a copy of each form of notification provided to any of them.
- (5) Where the Certification Officer is satisfied that a trade union has failed to comply with a requirement of this section, the Officer may make such order for remedying the failure as he thinks just under the circumstances.
- (6) Before deciding the matter the Certification Officer—
 - (a) may make such enquiries as the Officer thinks fit;
 - (b) must give the union, and any member of the union who made a complaint to the Officer regarding the matter, an opportunity to make written representations; and

- (c) may give the union, and any such member as is mentioned in paragraph (b), an opportunity to make oral representations.”

7C Page 7, line 6, at end insert—

“(2A) In section 82 of the 1992 Act (rules as to political fund), in subsection (1), for the word “and” at the end of paragraph (c) substitute—

“(ca) that, if the union has a political fund, any form (including an electronic form) that a person has to complete in order to become a member of the union shall include—

- (i) a statement to the effect that the person may opt to be a contributor to the fund, and
- (ii) a statement setting out the effect of paragraph (c); and”

7D Page 7, line 7, leave out subsections (3) to (5) and insert—

“(3) The amendments made by subsections (1) to (2A) apply only after the end of the transition period, and only to a person—

- (a) who after the end of that period joins a trade union that has a political fund, or
- (b) who is a member of a trade union that has a political fund but did not have one immediately before the end of that period.

(4) In subsection (3) “the transition period” means a period of not less than 12 months, starting on the day on which this section comes into force, specified by the Secretary of State in regulations made by statutory instrument.

(5) Before making regulations under subsection (4) the Secretary of State must consult—

- (a) the Certification Officer, and
- (b) all trade unions that have a political fund.

(6) A statutory instrument containing regulations under subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

7E Page 26, line 27, at end insert—

“() section 84A(5) (order on failure by union to provide required information to members about contributing to political fund);”

7F Page 30, line 12, leave out paragraph 7

LORDS AMENDMENT 17

Clause 13

17 Leave out Clause 13

COMMONS DISAGREEMENT AND AMENDMENTS TO THE WORDS SO RESTORED TO THE BILL

The Commons disagree with Lords Amendment No. 17, but do propose Amendments 17A,

17B and 17C to the words so restored to the Bill –

17A Page 9 leave out lines 30 to 32 and insert –

- “(1) After the end of the period of three years beginning with the day on which the first regulations under section 172A come into force, a Minister of the Crown may exercise the reserve powers (see subsection (2)) if the Minister considers it appropriate to do so having regard to –
- (a) information published by employers in accordance with publication requirements;
 - (b) the cost to public funds of facility time in relation to each of those employers;
 - (c) the nature of the various undertakings carried on by those employers;
 - (d) any particular features of those undertakings that are relevant to the reasonableness of the amount of facility time;
 - (e) any other matters that the Minister thinks relevant.

(1A) The reserve powers may not be exercised so as to apply to any particular employer unless –

- (a) a Minister of the Crown has given notice in writing to the employer –
 - (i) setting out the Minister’s concerns about the amount of facility time in the employer’s case, and
 - (ii) informing the employer that the Minister is considering exercising the reserve powers in relation to that employer;
- (b) the employer has had a reasonable opportunity to respond to the notice under paragraph (a) and to take any action that may be appropriate in view of the concerns set out in it;

and the powers may not be exercised until after the end of the period of 12 months beginning with the day on which the notice under paragraph (a) was given.”

17B Page 9, line 37, leave out from “for” to “that” in line 43 and insert “the purpose of ensuring”

17C Page 10, line 25, at end insert –

- “() The regulations may confer power on a Minister of the Crown, by notice in writing to a particular employer, to suspend the application of the regulations to that employer for such period and to such extent as the Minister may specify in the notice.”

Trade Union Bill

COMMONS AMENDMENTS

27th April 2016

© Parliamentary copyright House of Lords

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS