



# Trade Union Act 1984

## 1984 CHAPTER 49

An Act to make provision for election to certain positions in trade unions and with respect to ballots held in connection with strikes or other forms of industrial action; to require trade unions to compile and maintain registers of members' names and addresses; to amend the law relating to expenditure by trade unions and unincorporated employers' associations on political objects; and to amend sections 1 and 2 of the Employment Act 1980. [26th July 1984]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### SECRET BALLOTS FOR TRADE UNION ELECTIONS

##### **1 Duty of trade union to hold elections for certain positions**

- (1) Subject to the following provisions of this Part of this Act, it shall be the duty of every trade union (notwithstanding anything in its rules) to secure—
  - (a) that every person who is a voting member of the principal executive committee of the union holds that position by virtue of having been elected as such a member at an election in relation to which section 2 of this Act has been satisfied; and
  - (b) that no person remains such a member for a period of more than five years without being re-elected at such an election.
- (2) Where a person is a voting member of the principal executive committee of a trade union by virtue of holding some other position in that union, subsection (1) above shall apply as if references to a voting member of that committee were references to the holder of that other position.

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- (3) Where a person—
- (a) was a voting member of the principal executive committee of a trade union immediately before an election; and
  - (b) is not elected at that election as such a member or, as the case may be, as the holder of a position in the union by virtue of which the holder is such a member;
- nothing in this section shall be taken to require the union to prevent him from continuing to be such a member, or continuing to hold that position, at any time before the expiry of such period (not exceeding six months) as may reasonably be required for effect to be given to the result of the election.
- (4) Any term or condition upon which a person is employed by a trade union shall be disregarded in so far as it would otherwise prevent the union from complying with any provision of this Part.
- (5) In this section " principal executive committee ", in relation to a trade union, means the principal committee of the trade union exercising executive functions, by whatever name it is known.
- (6) Nothing in this Part shall affect the validity of anything done by the principal executive committee of a trade union.
- (7) For the purposes of this section a person is a voting member of the principal executive committee of a trade union if he is entitled in his own right to attend meetings of the committee and to vote on matters on which votes are taken by the committee (whether or not he is entitled to attend all such meetings or to vote on all such matters or in all circumstances).

## **2 Requirements to be satisfied in relation to elections**

- (1) Entitlement to vote at the election must be accorded equally to all members of the trade union in question other than those who belong to a class—
- (a) which is, or which falls within, one or other of the classes mentioned in subsection (2) below ; and
  - (b) all the members of which are excluded by the rules of the union from voting at the election.
- (2) The classes are—
- (a) members who are not in employment;
  - (b) members who are in arrears in respect of any subscription or contribution due to the union;
  - (c) members who are apprentices, trainees or students or new members of the union.
- (3) Where the conditions mentioned in subsection (4) below are satisfied, nothing in subsection (1) above shall be taken to prevent a trade union from restricting entitlement to vote at an election to members of the union who fall within—
- (a) a class determined by reference to any trade or occupation ;
  - (b) a class determined by reference to any geographical area;
  - (c) a class which is by virtue of the rules of the union treated as a separate section within the union ; or

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- (d) a class determined by reference to any combination of the matters mentioned in paragraphs (a), (b) and (c) above.
- (4) The conditions are that—
  - (a) entitlement to vote is restricted by the rules of the union;
  - (b) no member of the union is denied entitlement to vote at all elections held for the purposes of this Part otherwise than by virtue of belonging to a class mentioned in subsection (1) above.
- (5) The method of voting must be by the marking of a voting paper by the person voting.
- (6) Every person who is entitled to vote at the election must—
  - (a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees ; and
  - (b) so far as is reasonably practicable, be enabled to do so without incurring any direct cost to himself.
- (7) So far as is reasonably practicable, every person who is entitled to vote at the election must—
  - (a) have sent to him, at his proper address and by post, a voting paper which either lists the candidates at the election or is accompanied by a separate list of those candidates; and
  - (b) be given a convenient opportunity to vote by post.
- (8) The ballot shall be conducted so as to secure that—
  - (a) so far as is reasonably practicable, those voting do so in secret;
  - (b) the result of the election is determined solely by counting the number of votes cast directly for each candidate at the election by those voting (nothing in this paragraph being taken to prevent the system of voting used for the election being the single transferable vote); and
  - (c) the votes given at the election are fairly and accurately counted (any inaccuracy in counting being disregarded for the purposes of this paragraph if it is accidental and on a scale which could not affect the result of the election).
- (9) No member of the trade union in question shall be unreasonably excluded from standing as a candidate at the election.
- (10) No candidate at the election shall be required, whether directly or indirectly, to be a member of a political party.
- (11) A member of a trade union shall not be taken to have been unreasonably excluded from standing as a candidate at the election if he has been excluded on the ground that he belongs to a class all the members of which are excluded by the rules of the union.
- (12) For the purposes of subsection (11) above, any rule which provides for a class to be determined by reference to those members which the union chooses to exclude from so standing shall be disregarded.
- (13) A trade union which has overseas members may choose whether or not to accord any of those members entitlement to vote at the election; and nothing in the preceding provisions of this section shall apply in relation to any overseas member or in relation to any vote cast by such a member.
- (14) Nothing in this section shall be taken to require a ballot to be held at an uncontested election.

### 3 Modification of section 2 requirements

- (1) Where a trade union proposes to hold an election and is satisfied that there are no reasonable grounds for believing that the requirements of section 2 of this Act would not be satisfied in relation to that election if subsection (7) of that section were to apply as modified by this section, it may proceed as if for paragraphs (a) and (b) of subsection (7) there were substituted—

“(a) have made available to him—

(i) immediately before, immediately after, or during his working hours ; and

(ii) at his place of work or at a place which is more convenient for him;

or be supplied with, a voting paper which either lists the candidates at the election or is accompanied by a separate list of those candidates ; and

(b) be given—

(i) a convenient opportunity to vote by post (but no other opportunity to vote);

(ii) an opportunity to vote immediately before, immediately after, or during, his working hours and at his place of work or at a place which is more convenient for him (but no other opportunity); or

(iii) as alternatives, both of those opportunities (but no other opportunity).”.

### 4 Register of members' names and addresses

- (1) It shall be the duty of every trade union—

(a) to compile, by the date appointed under section 22(3) of this Act, and thereafter maintain a register of the names and proper addresses of its members ; and

(b) to secure, so far as is reasonably practicable, that the entries in the register are accurate and are kept up-to-date.

- (2) The register may be kept by means of a computer.

- (3) Any duty falling upon a branch under this section by reason of its being a trade union shall be treated as having been discharged to the extent to which the union of which it is a branch has discharged that duty instead of the branch.

### 5 Remedy for failure to comply with Part I

- (1) Any person who claims that a trade union has failed to comply with one or more of the provisions of this Part may apply to the Certification Officer or to the court for a declaration to that effect if—

(a) in a case where the application relates to an election which has been held, he was a member of the trade union at the date when the election was held and is such a member at the time when the application is made; and

(b) in any other case, he is a member of the union at the time when the application is made.

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- (2) An application relating to an election which has been held must be made before the expiry of the period of one year beginning with the date on which the result of the election is announced by the trade union.
- (3) On an application under this section the Certification Officer or, as the case may be, the court may make or refuse to make the declaration asked for.
- (4) A declaration made under this section shall specify the provisions with which the trade union has failed to comply.
- (5) Where the court makes such a declaration it shall also make an enforcement order unless it considers that to do so would be inappropriate.
- (6) In this section " enforcement order " means an order which imposes on the trade union one or more of the requirements mentioned in subsection (7) below.
- (7) The requirements are—
  - (a) to secure the holding of such an election as may be specified in the order ;
  - (b) to take such other steps to remedy the declared failure as may be so specified ;
  - (c) to abstain from such acts as may be so specified with a view to securing that a failure of the same, or any similar, kind as that of the declared failure does not arise on the part of the trade union.
- (8) In making an enforcement order which requires the union to hold a fresh election, in any case where the application relates to an election which has been held, the court shall (unless it considers that it would be inappropriate to do so in the particular circumstances of the case) require the fresh election to be conducted—
  - (a) in accordance with such provisions as may be made by the order; and
  - (b) with a postal ballot (that is to say, as if section 3 were omitted from this Part).
- (9) An enforcement order under this section which imposes requirements by virtue of paragraph (a) or (b) of subsection (7) above shall be so expressed as to require the trade union to comply with those requirements before the expiry of such period as the court considers appropriate.
- (10) The remedy of any person for a failure of a trade union to comply with one or more of the provisions of this Part shall be by way of application under this section and not otherwise.
- (11) Where an enforcement order has been made, any person who satisfies the requirements of subsection (12) below shall be entitled to enforce obedience to the order as if he had made the application in pursuance of which the order was made.
- (12) The requirements are that—
  - (a) he is a member of the union at the time when the proceedings to enforce obedience to the order are begun; and
  - (b) he was such a member at the time when the order was made.
- (13) The court having jurisdiction for the purposes of this section shall be the High Court or, in Scotland, the Court of Session.

## **6 Proceedings before Certification Officer: supplementary provisions**

- (1) Where the Certification Officer makes a declaration under section 5 of this Act and is satisfied that—
  - (a) steps have been taken by the union with a view to remedying the declared failure or securing that a failure of the same, or any similar, kind as that of the declared failure does not arise on the part of the union ; or
  - (b) the union has agreed to take such steps ;the Certification Officer shall, in making the declaration, specify those steps.
- (2) On an application to him under section 5, the Certification Officer (whether or not he makes a declaration) shall give reasons for his decision in writing ; and any such reasons may be accompanied by written observations on any matter arising from, or connected with, the proceedings.
- (3) The making of an application to the Certification Officer under section 5 shall not be taken to prevent the applicant, or any other person, from making a subsequent application to the court under that section in respect of the same matter.
- (4) Where such a subsequent application is made, the court shall have due regard to any declaration, reasons or observations of the Certification Officer in the proceedings before him which are brought to the notice of the court in the proceedings before it.
- (5) On an application made to him under section 5, the Certification Officer shall—
  - (a) make such enquiries as he thinks fit; and
  - (b) where he considers it appropriate, give the applicant and the trade union an opportunity to be heard.
- (6) The Certification Officer may regulate the procedure to be followed on applications to him under section 5.
- (7) In exercising his functions under this section the Certification Officer shall ensure, so far as is reasonably practicable, that every application made to him under section 5 is determined within six months.
- (8) Where the Certification Officer requests any person to furnish information to him in connection with enquiries made by him under this section, he shall specify the date by which that information is to be furnished and shall, unless he considers that in all the circumstances of the case it would be inappropriate to do so, proceed with his determination of the application notwithstanding that the information has not been furnished to him by the specified date.

## **7 Exemption for certain trade unions**

- (1) This Part does not apply to any trade union which—
  - (a) falls within section 28(1)(b) of the 1974 Act (unions which consist wholly or mainly of, or of representatives of, constituent or affiliated organisations); and
  - (b) has no members (other than such representatives) who are individuals.
- (2) Subsection (1)(b) above shall not apply where—
  - (a) a trade union has members (" special members ") who are individuals but who are not such representatives as are mentioned in subsection (1)(a) above; and
  - (b) the conditions mentioned in subsection (3) below are satisfied.

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- (3) The conditions are that—
  - (a) all of the special members are merchant seamen ;
  - (b) a majority of the special members are ordinarily resident outside the United Kingdom.
- (4) This Part does not apply to a trade union at any time when the conditions mentioned in subsection (5) below are satisfied in relation to it.
- (5) The conditions are that—
  - (a) the trade union was formed after the commencement of this Part; and
  - (b) not more than one year has elapsed since its formation.
- (6) In subsection (5) above "formed" includes formed by amalgamation under the 1964 Act.
- (7) Where a trade union is formed otherwise than by amalgamation under the 1964 Act, the date of its formation shall be taken, for the purposes only of this section, to be the date on which the first members of its principal executive committee are first appointed or, as the case may be, elected to that committee.
- (8) Where one trade union (the " transferring union") has transferred its engagements to another trade union (the " receiving union ") then, during the period of one year beginning with the date of the transfer, this Part shall not apply in relation to any person who—
  - (a) was a member of the principal executive committee of the transferring union immediately before the transfer; and
  - (b) became a member of the principal executive committee of the receiving union in accordance with the instrument of transfer.

## **8 Exemption for certain persons nearing retirement**

- (1) Section 1(1)(b) of this Act does not apply to any voting member of the principal executive committee of a trade union at any time when the conditions mentioned in subsection (2) below are satisfied in relation to him.
- (2) The conditions are that—
  - (a) he holds his position as such a member by virtue of having been elected (whether as such a member or as the holder of another position in the union) at an election in relation to which section 2 of this Act has been satisfied;
  - (b) he is—
    - (i) in the case of a person who has been elected as such a member, a full-time employee of the union by virtue of being such a member ; or
    - (ii) in the case of a person who has been elected as the holder of another position in the union by virtue of which he is such a member, a full-time employee of the union by virtue of holding that other position;
  - (c) he will reach retirement age within five years;
  - (d) he is entitled under the rules of the union to continue as the holder of the position in question until retirement age without standing for re-election ;
  - (e) he has been a full-time employee of the union for a period (which need not be continuous) of at least ten years; and

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- (f) the period between the day on which the election referred to in paragraph (a) above took place and the day immediately preceding that on which paragraph (c) above is first satisfied does not exceed five years.
- (3) For the purposes of this section "retirement age", in relation to any person, means the earlier of—
  - (a) the age fixed by, or in accordance with, the rules of the union for him to retire from the position in question; or
  - (b) the age which is for the time being pensionable age for the purpose of the Social Security Act 1975.
- (4) Where the election referred to in paragraph (a) of subsection (2) above was held before the commencement of this Part, that paragraph shall apply as if it did not require section 2 of this Act to be satisfied in relation to that election.

## 9 Interpretation of Part I and transitional provision

- (1) In this Part—
  - "the 1964 Act" means the Trade Union (Amalgamations, etc.) Act 1964;
  - "the 1974 Act" means the Trade Union and Labour Relations Act 1974;
  - "the Certification Officer" means the officer appointed under section 7 of the Employment Protection Act 1975 ;
  - "merchant seaman" means a person whose employment, or the greater part of it, is carried out on board seagoing ships;
  - "offshore worker" means any person in employment to which section 127 of the Employment Protection Act 1975 (employment for purposes of activities in territorial or other offshore waters) applies, other than one who is in such employment in any area where the law of Northern Ireland applies ;
  - "overseas member", in relation to a trade union, means a member of the union (other than a merchant seaman or offshore worker) who is outside Great Britain throughout the period during which votes may be cast;
  - "post" means a postal service which—
    - (a) is provided by the Post Office or under a licence granted under section 68 of the British Telecommunications Act 1981; or
    - (b) does not infringe the exclusive privilege conferred on the Post Office by section 66(1) of that Act only by virtue of an order made under section 69 of that Act;
  - "principal executive committee" has the meaning given in section 1(5) of this Act;
  - "proper address", in relation to any member of a trade union, means his home address or any other address which he has requested the union in writing to treat as his postal address ;
  - "section", in relation to a trade union, includes any part of the union which is itself a trade union ;
  - "single transferable vote" means a vote capable of being—
    - (a) given so as to indicate the voter's order of preference for the candidates ; and
    - (b) transferred to the next choice—
      - (i) when it is not required to give a prior choice the necessary quota of votes ; or

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- (ii) when, owing to the deficiency in the number of votes given for a prior choice, that choice is eliminated from the list of candidates ;
  - " trade union " has the same meaning as it has in the 1974 Act by virtue of section 28 ;
  - " voting member " shall be construed in accordance with section 1(7) of this Act; and
  - " working hours ", in relation to an employee, means any time when, in accordance with his contract of employment, he is required to be at work.
- (2) For the purposes of this Part, the date on which a contested election is held is, in the case of a ballot in which votes may be cast on more than one day, the last of those days.
- (3) Where a voting member of the principal executive committee of a trade union was elected as such a member, or as the case may be as the holder of a relevant position, at an election held within the period of five years ending with the commencement of this Part—
  - (a) section 1(1)(a) of this Act shall have effect, as if it did not require section 2 of this Act to be satisfied in relation to that election; and
  - (b) the period of five years mentioned in section 1(1)(b) shall be calculated from the date of that election.
- (4) In subsection (3) above " relevant position " means a position in the union by virtue of which the holder is a voting member of the principal executive committee of the union.

## PART II

### SECRET BALLOTS BEFORE INDUSTRIAL ACTION

#### **10 Industrial action authorised or endorsed by trade union without support of a ballot**

- (1) Nothing in section 13 of the 1974 Act shall prevent an act done by a trade union without the support of a ballot from being actionable in tort (whether or not against the trade union) on the ground that it induced a person to break his contract of employment or to interfere with its performance.
- (2) Nothing in section 13 of the 1974 Act shall prevent an act done by a trade union from being actionable in tort (whether or not against the trade union) on the ground that it induced a person to break a commercial contract or to interfere with its performance where—
  - (a) one of the facts relied upon for the purpose of establishing liability is that the union induced another person to break his contract of employment or to interfere with its performance ; and
  - (b) by virtue of subsection (1) above, nothing in section 13 of the 1974 Act would prevent the act of inducement referred to in paragraph (a) above from being actionable in tort.
- (3) For the purposes of subsection (1) above, an act shall be taken as having been done with the support of a ballot if, but only if—

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- (a) the trade union has held a ballot in respect of the strike or other industrial action in the course of which the breach or interference referred to in subsection (1) above occurred;
  - (b) the majority of those voting in the ballot have answered " Yes " to the appropriate question ;
  - (c) the first authorisation or endorsement of any relevant act, and in the case of an authorisation the relevant act itself, took place after the date of the ballot and before the expiry of the period of four weeks beginning with that date; and
  - (d) section 11 of this Act has been satisfied in relation to the ballot.
- (4) In subsection (3)(b) above " appropriate question" means—
- (a) where the industrial action mentioned in subsection (3)(a) above is, or includes, a strike, the question referred to in subsection (4)(a) of section 11; and
  - (b) in any other case, that referred to in subsection (4)(b) of that section.
- (5) In this Part—
- "the 1974 Act" means the Trade Union and Labour Relations Act 1974;
  - " authorisation or endorsement" means an authorisation or endorsement of an act which, by virtue of section 15 of the Employment Act 1982, causes the act to be taken, for the purposes mentioned in that section, to have been done by the trade union;
  - " commercial contract" means any contract which is not a contract of employment;
  - " contract of employment" has the same meaning as it has in the 1974 Act by virtue of section 30;
  - " the date of the ballot" means, in the case of a ballot in which votes may be cast on more than one day, the last of those days;
  - " relevant act" means an act (done in the course of the action mentioned in subsection (3)(a) above) of inducing a person to break his contract of employment or to interfere with its performance;
  - " tort ". as respects Scotland, means delict;
  - " trade union " has the same meaning as it has in the 1974 Act by virtue of section 28 ;
- and any reference to a breach or interference occurring in the course of a strike or other industrial action includes a reference to a breach or interference which, taken together with any corresponding action relating to other contracts of employment, constitutes that action.

## **11 Requirements to be satisfied in relation to ballots**

- (1) Entitlement to vote in the ballot must be accorded—
- (a) equally, to all those members of the trade union who it is reasonable at the time of the ballot for the union to believe will be called upon in the strike or other industrial action in question to act in breach of, or to interfere with the performance of, their contracts of employment or, as the case may be, to continue so to act; and
  - (b) to no others.
- (2) Where a person who was a member of a trade union at the time when a ballot was held for the purposes of this Part—

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- (a) was denied entitlement to vote in the ballot; and
- (b) is induced by the union, in the course of the action in respect of which the ballot was held, to break his contract of employment or to interfere with its performance (" in the course of " having the same meaning as in section 10 of this Act);

this section shall be taken not to have been satisfied in relation to that ballot.

- (3) The method of voting in the ballot must be by the marking of a voting paper by the person voting.
- (4) The voting paper must contain at least one of the following questions—
  - (a) a question (however framed) which requires the voter to say, by answering " Yes " or " No ", whether he is prepared to take part, or as the case may be to continue to take part, in a strike involving him in a breach of his contract of employment;
  - (b) a question (however framed) which requires the voter to say, by answering " Yes " or " No ", whether he is prepared to take part, or as the case may be to continue to take part, in industrial action falling short of a strike but involving him in a breach of his contract of employment.
- (5) Every person who is entitled to vote in the ballot must—
  - (a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees ; and
  - (b) so far as is reasonably practicable, be enabled to do so without incurring any direct cost to himself.
- (6) So far as is reasonably practicable, every person who is entitled to vote in the ballot must—
  - (a) have made available to him—
    - (i) immediately before, immediately after, or during his working hours ;  
and
    - (ii) at his place of work or at a place which is more convenient for him;  
or be supplied with, a voting paper ; and
  - (b) be given—
    - (i) a convenient opportunity to vote by post (but no other opportunity to vote);
    - (ii) an opportunity to vote immediately before, immediately after, or during, his working hours and at his place of work or at a place which is more convenient for him (but no other opportunity); or
    - (iii) as alternatives, both of those opportunities (but no other opportunity).
- (7) The ballot shall be conducted so as to secure that—
  - (a) so far as is reasonably practicable, those voting do so in secret; and
  - (b) the votes given in the ballot are fairly and accurately counted (any inaccuracy in counting being disregarded for the purposes of this paragraph if it is accidental and on a scale which could not affect the result of the ballot).
- (8) As soon as is reasonably practicable after the holding of the ballot, the trade union shall take such steps as are reasonably necessary to ensure that all persons entitled to vote in the ballot are informed of the number of—
  - (a) votes cast in the ballot;

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- (b) individuals voting " Yes " ;
  - (c) individuals voting " No " ; and
  - (d) spoiled voting papers.
- (9) A trade union which has overseas members may choose whether or not to accord any of those members entitlement to vote in a ballot; and nothing in subsections (1) to (7) above shall apply in relation to any overseas member or in relation to any vote cast by any such member.
- (10) Where overseas members have voted in the ballot, subsection (8) above shall be read as requiring the information in question to be provided to all those entitled to vote in the ballot other than overseas members and to distinguish between overseas members and other members.
- (11) In this section—
- "overseas member" has the same meaning as is given in section 9(1) of this Act;
  - " post" means a postal service which—
    - (a) is provided by the Post Office or under a licence granted under section 68 of the British Telecommunications Act 1981; or
    - (b) does not infringe the exclusive privilege conferred on the Post Office by section 66(1) of that Act only by virtue of an order made under section 69 of that Act;
  - " working hours ", in relation to an employee, means any time when, in accordance with his contract of employment, he is required to be at work ; and
  - " strike " means any concerted stoppage of work.

### PART III

#### POLITICAL FUNDS AND OBJECTS

##### *Resolutions under 1913 Act*

## 12 Political fund resolutions: periodical ballots

- (1) In this Part of this Act references to a " resolution " are to a resolution under section 3 of the 1913 Act (restriction on application of trade union funds for certain political purposes).
- (2) A resolution shall, if it has not previously been rescinded, cease to have effect—
- (a) on the expiry of the period of ten years beginning with the date (whether before or after the commencement date) of the ballot on which it was passed ; or
  - (b) if a ballot is held before the expiry of that period and the result of the ballot is that a new resolution is not passed, on the expiry of the period of two weeks beginning with the date of the ballot.
- (3) For the purposes of this section, any resolution which—
- (a) is in force on the commencement date ; and
  - (b) was passed more than nine years before that date;
- shall be deemed to have been passed nine years before that date.

- (4) Where a trade union holds a ballot at a time when a resolution (the " old resolution ") is in force in respect of that union and the result of the ballot is that a new resolution is passed, the old resolution shall be treated as rescinded on the passing of the new resolution.
- (5) Where two or more trade unions have amalgamated under the 1964 Act and by virtue of section 5(4) of that Act the amalgamated union is treated as having passed a resolution immediately after the amalgamation, that resolution shall, for the purposes of this section, be treated as having been passed on the date of the earliest of the ballots on which the resolutions in force immediately before the amalgamation with respect to the amalgamating unions were passed.

### **13 Ballots: supplementary provisions**

- (1) In section 4(1) of the 1913 Act (ballots to be in accordance with rules approved by the Certification Officer) for the words from " every member" to the end there shall be substituted " the requirements of subsections (1A) to (1F) below would be satisfied in relation to a ballot taken by the union in accordance with those rules. "
- (2) After subsection (1) of section 4 of the 1913 Act there shall be inserted the following subsections—
  - “(1A) Entitlement to vote in the ballot must be accorded equally to all members of the trade union.
  - (1B) The method of voting must be by the marking of a voting paper by the person voting.
  - (1C) Every person who is entitled to vote in the ballot must—
    - (a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees; and
    - (b) so far as is reasonably practicable, be enabled to do so without incurring any direct cost to himself.
  - (1D) So far as is reasonably practicable, every person who is entitled to vote in the ballot must—
    - (a) have made available to him—
      - (i) immediately before, immediately after, or during, his working hours ; and
      - (ii) at his place of work or at a place which is more convenient for him ;or be supplied with, a voting paper; and
    - (b) be given—
      - (i) a convenient opportunity to vote by post (but no other opportunity to vote);
      - (ii) an opportunity to vote immediately before, immediately after, or during, his working hours and at his place of work or at a place which is more convenient for him (but no other opportunity); or
      - (iii) as alternatives, both of those opportunities (but no other opportunity).
  - (1E) The ballot must be conducted so as to secure that—

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- (a) so far as is reasonably practicable, those voting do so in secret; and
- (b) the votes given in the ballot are fairly and accurately counted (any inaccuracy in counting being disregarded for the purposes of this paragraph if it is accidental and on a scale which could not affect the result of the ballot).

(1F) In this section—

" post " means a postal service which—

- (a) is provided by the Post Office or under a licence granted under section 68 of the British Telecommunications Act 1981; or
- (b) does not infringe the exclusive privilege conferred on the Post Office by section 66(1) of that Act only by virtue of an order made under section 69 of that Act; and

" working hours ", in relation to an employee, means any time when, in accordance with his contract of employment, he is required to be at work."

- (3) Where it is proposed to hold a ballot, section 4(1) of the 1913 Act shall have effect so as to require the rules of the trade union to be approved in relation to the proposed ballot notwithstanding that approval has been given under that section in relation to a ballot previously held by that union.
- (4) If the Certification Officer is satisfied, and certifies, that rules made for the purposes of complying with the provisions of section 4(1) or section 5(1) of that Act (rules relating to giving to members of notice of right to be exempt from contributing to political fund) have been approved by the principal executive committee of a trade union, those rules shall have effect as rules of the trade union for the purposes of section 4(1) or, as the case may be, 5(1) as it applies in relation to the first review, notwithstanding that the provisions of the rules of the union as to the alteration of rules or the making of new rules have not been complied with.
- (5) Subsection (4) above applies only where a resolution was in force with respect to the union at the commencement date.
- (6) In subsection (4) above " first review " means a ballot which—
  - (a) is held before the expiry of the period of one year beginning with the commencement date ; and
  - (b) is the first ballot held during that period.
- (7) Where a resolution is in force with respect to a trade union—
  - (a) rules made by the union for the purpose of complying with section 4(1) of the 1913 Act in relation to a proposed ballot may provide for overseas members of the union not to be accorded entitlement to vote in the ballot; and
  - (b) rules made by the union for the purpose of complying with section 5(1) of the 1913 Act may provide for notice not to be given by the union to its overseas members.
- (8) Where subsection (7) above applies—
  - (a) in a case where rules have been made by virtue of paragraph (a) of subsection (7), the Certification Officer shall not withhold his approval under section 4(1) of the 1913 Act on the ground that the rule in question makes such provision in relation to overseas members of the union as is mentioned in subsection (7); and

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- (b) in a case where rules have been made by virtue of paragraph (b) of subsection (7), section 5(1) of the 1913 Act shall be taken not to require notice to be given by the union to its overseas members.
- (9) Where, following a notice given by a trade union under subsection (1) of section 5 of the 1913 Act on the passing of a new resolution, a member of the union gives notice of his objection to contribute to the political fund of the union, subsection (2) of that section (effective date of exemption) shall have effect as if the words from " or, in the case " to the end were omitted.
- (10) In this section—
  - " new resolution ", in relation to a trade union, means a resolution passed on a ballot held at a time when a resolution is in force in respect of that union ; and
  - " overseas member " has the same meaning as is given in section 9(1) of this Act.

#### **14 Assets and liabilities of political fund**

- (1) At any time when there is a resolution in force with respect to a trade union, no property shall be added to the union's political fund other than—
  - (a) sums representing contributions made to the fund by members of the union or by any person other than the union itself; and
  - (b) property which accrues to the fund in the course of administering the assets of the fund.
- (2) At any time when there is no resolution in force with respect to a trade union which has a political fund—
  - (a) subject to section 15(5) of this Act, no property shall be added to the fund other than that which accrues to the fund in the course of administering the assets of the fund;
  - (b) no rule of the union shall be taken to require any member of the union to contribute to the fund ;
  - (c) the union may, notwithstanding any of its rules or any trusts on which the political fund is held, transfer the whole or any part of the fund to such other fund of the union as it thinks fit.
- (3) No liability of a political fund shall be discharged out of any other fund of the trade union (whether or not any asset of that other fund has been charged in connection with that liability).
- (4) Subsection (3) above shall have effect notwithstanding any term or condition on which any liability was incurred, but shall not have effect in relation to any liability incurred before the passing of this Act.
- (5) In section 6 of the 1913 Act, the words from " and in that case ", where they first occur, to " that fund " (which are superseded by subsection (1) above) are hereby repealed.

#### **15 Position where resolution has ceased to have effect**

- (1) Where on the holding of a ballot a resolution has ceased to have effect by virtue of subsection (2) of section 12 of this Act in the circumstances mentioned in paragraph (b) of that subsection, the trade union may at any time before the expiry of the period of

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six months beginning with the date of the ballot make payments out of the political fund as if the resolution were still in force.

- (2) Nothing in subsection (1) above shall be taken to authorise any payment which would cause the political fund to be in deficit or would increase any deficit in the fund.
- (3) On a resolution ceasing to have effect, the trade union—
  - (a) shall take such steps as are necessary to ensure that the collection of contributions to the political fund is discontinued as soon as is reasonably practicable; and
  - (b) may, notwithstanding any of its rules, pay any such contribution which is received by it after the date of cessation into any of its other funds.
- (4) Where a resolution has ceased to have effect but the trade union has continued to collect contributions to the political fund from any of its members, it shall pay to any member who applies to it for a refund of his contribution the amount collected from him by way of such a contribution after the date of cessation.
- (5) Where a resolution has ceased to have effect, any contributions to the political fund paid to the union or to any person on behalf of the union, before the date of cessation, may be paid into the political fund notwithstanding section 14(2)(a) of this Act.
- (6) Where a resolution has ceased to have effect, any provision made by any rule of the trade union for the purpose of complying with the 1913 Act shall cease to have effect—
  - (a) in a case where the resolution has ceased to have effect by virtue of subsection (2) of section 12 of this Act in the circumstances mentioned in paragraph (b) of that subsection, on the date on which the period of six months beginning with the date of the ballot expires; and
  - (b) in any other case, on the date of cessation.
- (7) Nothing in subsection (6) above shall be taken to affect—
  - (a) any provision made by any rule of the union which is required to enable the union's political fund to be administered at a time when there is no resolution in force with respect to the union;
  - (b) the operation of section 3(2) of the 1913 Act (complaint to Certification Officer in respect of breach of rules) in relation to any breach occurring before the date on which the rule in question ceased to have effect.
- (8) Where a resolution has ceased to have effect, no member of the trade union who has at any time been exempt from the obligation to contribute to the political fund of the union shall, by reason of his having been so exempt be—
  - (a) excluded from any benefits of the union ; or
  - (b) placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the union (except in relation to the control or management of the political fund).
- (9) Where, at any time after a resolution has ceased to have effect—
  - (a) the trade union holds a ballot; and
  - (b) the result of the ballot is that a new resolution is passed ;

no property which immediately before the date of the ballot was held by or on behalf of the union otherwise than in its political fund, and no sums representing any such property, shall be added to that fund.

- (10) Where a resolution ceases to have effect but immediately afterwards there is a new resolution in force with respect to the trade union, the cessation of the old resolution shall be disregarded for the purposes of this section.
- (11) In this section "date of cessation" means the date on which the resolution which was last in force ceased to have effect.

## **16 Remedy for failure to comply with s. 15(3)(a)**

- (1) Any person who claims that a trade union has failed to comply with section 15(3)(a) of this Act may apply to the court for a declaration to that effect if he is a member of the union at the time when the application is made.
- (2) Where, on an application under this section, the court is satisfied that a trade union has failed to comply with section 15(3)(a) it may, if it considers it appropriate to do so in order to secure that the collection of contributions to the political fund is discontinued, make an order requiring the union to take, within such time as may be specified in the order, such steps as may be so specified.
- (3) Where an order has been made under this section, any person who satisfies the requirements of subsection (4) below shall be entitled to enforce obedience to the order as if he had made the application in pursuance of which the order was made.
- (4) The requirements are that—
  - (a) he is a member of the union at the time when proceedings to enforce obedience to the order are begun ; and
  - (b) he was such a member at the time when the order was made.
- (5) The remedy of any person for a failure of a trade union to comply with section 15(3)(a) of this Act shall be by way of application under this section and not otherwise; but nothing in this subsection shall be taken to prejudice the right of any person to recover any sum payable to him by the union under section 15(4) of this Act.
- (6) The court having jurisdiction for the purposes of this section shall be the High Court or, in Scotland, the Court of Session.

### *Political objects*

## **17 Political objects**

- (1) For subsection (3) of section 3 of the 1913 Act (which defines the political objects expenditure on which must be met out of the political fund of the trade union) there shall be substituted—
  - “(3) The political objects to which this section applies are the expenditure of money—
    - (a) on any contribution to the funds of, or on the payment of any expenses incurred directly or indirectly by, a political party ;
    - (b) on the provision of any service or property for use by or on behalf of any political party;
    - (c) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office;

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- (d) on the maintenance of any holder of a political office;
  - (e) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting the main purpose of which is the transaction of business in connection with a political party ;
  - (f) on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate.
- (3A) Where a person attends a conference or meeting as a delegate or otherwise as a participator in the proceedings, any expenditure incurred in connection with his attendance as such shall, for the purposes of subsection (3)(e) above, be taken to be expenditure incurred on the holding of the conference or meeting.
- (3B) In determining, for the purposes of subsection (3) above, whether a trade union has incurred expenditure of a kind mentioned in that subsection, no account shall be taken of the ordinary administrative expenses of the union.
- (3C) In this section—
- " candidate " means a candidate for election to a political office and includes a prospective candidate ;
  - " contribution " , in relation to the funds of a political party, includes any fee payable for affiliation to, or membership of, the party and any loan made to the party;
  - " electors " means electors at any election to a political office;
  - " film " has the same meaning as in section 38 of the Films Act 1960;
  - " local authority " means a local authority within the meaning of section 270 of the Local Government Act 1972 or section 235 of the Local Government (Scotland) Act 1973 ; and
  - " political office " means the office of member of Parliament, member of the Assembly of the European Communities or member of a local authority or any position within a political party."
- (2) Where a resolution is in force with respect to a trade union at the commencement date, that resolution and any rule of the union made in pursuance of section 3 of the 1913 Act which is in force at that date shall have effect as if for any reference to the political objects to which that section applied immediately before the commencement date there were substituted a reference to those objects as amended by this section.
- (3) Section 1(2) of the 1913 Act (which defines "statutory objects " and which is spent in consequence of this section) is hereby repealed.

### *Union dues*

## 18 Collection of union dues by employers

- (1) Where any person who is a member of a trade union which has a political fund has certified in writing to his employer that, or to the effect that, he—
- (a) is exempt from the obligation to contribute to that fund ; or
  - (b) has, in accordance with the 1913 Act, notified the union in writing of his objection to contributing to it;

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the employer to whom the certificate was given shall ensure that no amount representing a contribution to the political fund of the union is deducted by him from emoluments payable to the member.

- (2) Subsection (1) above does not apply—
  - (a) before the first day, following the giving of the certificate, on which it is reasonably practicable for the employer to comply with it; or
  - (b) after the certificate is withdrawn.
- (3) Where an employer—
  - (a) refuses (otherwise than to the extent required by subsection (1) above) to deduct any union dues from emoluments payable to any person who has given a certificate to him under this section ; but
  - (b) continues to deduct union dues from emoluments payable to other members of the union;he shall be taken to have failed to comply with this section unless he satisfies the court that his refusal is not attributable to the giving of that certificate or otherwise connected with the duty imposed by subsection (1) above.
- (4) Where, on an application made by a person who claims that his employer has failed to comply with this section in deducting or refusing to deduct any amount from emoluments payable to him, the court is satisfied that there has been such a failure it shall make a declaration to that effect.
- (5) Where the court makes such a declaration it may, if it considers it appropriate to do so in order to secure that the failure is not repeated, make an order requiring the employer to take, within such time as may be specified in the order, such steps in relation to emoluments payable by him to the applicant as may be so specified.
- (6) The court having jurisdiction for the purposes of this section shall be the county court or, in Scotland, the sheriff court.
- (7) This section has effect (with the omission of subsection (5)) in relation to employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown any functions conferred by any enactment as it has effect in relation to other employment.

### *Interpretation*

## **19 Interpretation of Part III**

- (1) Expressions used in this Part and in the 1913 Act have the same meaning in this Part as they have in that Act.
- (2) In this Part—
  - " the 1913 Act " means the Trade Union Act 1913 ;
  - " the 1964 Act " means the Trade Union (Amalgamations, etc.) Act 1964;
  - " the date of the ballot " means, in the case of a ballot in which votes may be cast on more than one day, the last of those days ;
  - " the commencement date " means the date on which this Part comes into force;

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" principal executive committee", in relation to a trade union, means the principal committee of the trade union exercising executive functions, by whatever name it is known; and

" resolution " has the meaning given by section 12(1) of this Act.

- (3) References in this Part to the holding of a ballot (other than the reference in section 17(1)) are to the holding of a ballot for the purposes of the 1913 Act.
- (4) This Part applies, with the necessary modifications, in relation to unincorporated employers' associations as it applies in relation to trade unions.

## PART IV

### SUPPLEMENTARY

#### 20 Amendment of ss. 1 and 2 of Employment Act 1980

- (1) Section 1 of the Employment Act 1980 (payments in respect of secret ballots) shall have effect as amended by subsections (2) to (4) below.
- (2) In subsection (3) (ballots to which the section applies)—
- (a) in paragraph (b) (election provided for by union's rules) at the end there shall be inserted the words " or in relation to which section 2 of the Trade Union Act 1984 is required to be satisfied " ; and
  - (b) after paragraph (e) there shall be inserted—
    - “(f) obtaining a decision on a resolution for the purposes of section 3 of the Trade Union Act 1913”.
- (3) After subsection (3) there shall be inserted the following subsection—
- “(3A) Notwithstanding anything in subsections (2) and (3) above, this section does not apply to any ballot held by a trade union, if—
    - (a) the purpose of any question to be voted upon is the obtaining of a decision of the kind mentioned in paragraph (f) of subsection (3); and
    - (b) the ballot is held at a time when there is no resolution in force in respect of that union under section 3 of the Act of 1913.”
- (4) In subsection (5) (ballots to be conducted so as to secure that those voting may do so in secret) the word " may ", where it last occurs, shall be omitted.
- (5) In section 2(2)(b) of the Act of 1980 (ballots to which section 2 applies to be conducted so as to secure that those voting may do so in secret), the word " may " shall be omitted.

#### 21 Expenses

There shall be defrayed out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under section 1 of the Employment Act 1980 (payments in respect of secret ballots).

#### 22 Short title, commencement and extent

- (1) This Act may be cited as the Trade Union Act 1984.

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- (2) Section 4 shall come into force on the day on which this Act is passed.
- (3) Save as aforesaid, Part I shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (4) Part II shall come into force on the expiry of the period of two months beginning with the day on which this Act is passed.
- (5) Part III shall come into force on 31st March 1985.
- (6) Parts I and II and sections 18 and 20 of this Act do not extend to Northern Ireland and Part III does not apply in relation to any trade union which has its head or main office in Northern Ireland.