



# Trade Union Act 1984

## 1984 CHAPTER 49

### 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- (2) A resolution shall, if it has not previously been rescinded, cease to have effect—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of that union and the result of the ballot is that a new resolution is passed, the old resolution shall be treated as rescinded on the passing of the new resolution.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

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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—
- (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—

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- (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
  - (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.

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(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 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

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- (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.