



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART I

#### TRADE UNIONS

#### CHAPTER VI

##### APPLICATION OF FUNDS FOR POLITICAL OBJECTS

##### *Restriction on use of funds for certain political objects*

#### **71 Restriction on use of funds for political objects.**

- (1) The funds of a trade union shall not be applied in the furtherance of the political objects to which this Chapter applies unless—
- (a) there is in force in accordance with this Chapter a resolution (a “political resolution”) approving the furtherance of those objects as an object of the union (see sections 73 to 81), and
  - (b) there are in force rules of the union as to—
    - (i) the making of payments in furtherance of those objects out of a separate fund, and
    - (ii) the exemption of any member of the union objecting to contribute to that fund,which comply with this Chapter (see sections 82, 84 and 85) and have been approved by the Certification Officer.
- (2) This applies whether the funds are so applied directly, or in conjunction with another trade union, association or body, or otherwise indirectly.

*Status: Point in time view as at 13/03/2014. This version of this chapter contains provisions that are prospective.*

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## 72 Political objects to which restriction applies.

- (1) The political objects to which this Chapter applies are the expenditure of money—
- (a) on any contribution to the funds of, or on the payment of 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;
  - (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.

(2) 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 (1)(e), be taken to be expenditure incurred on the holding of the conference or meeting.

(3) In determining for the purposes of subsection (1) 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.

(4) 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 an election to a political office;

“film” includes any record, however made, of a sequence of visual images, which is capable of being used as a means of showing that sequence as a moving picture;

“local authority” means a local authority within the meaning of section 270 of the <sup>M1</sup>Local Government Act 1972 or section 235 of the <sup>M2</sup>Local Government (Scotland) Act 1973; and

“political office” means the office of member of Parliament, member of the European Parliament or member of a local authority or any position within a political party.

### Marginal Citations

**M1** 1972. c.70

**M2** 1973 c.65

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## **[<sup>F1</sup>72A Application of funds in breach of section 71.**

- (1) A person who is a member of a trade union and who claims that it has applied its funds in breach of section 71 may apply to the Certification Officer for a declaration that it has done so.
- (2) On an application under this section the Certification Officer—
  - (a) shall make such enquiries as he thinks fit,
  - (b) shall give the applicant and the union an opportunity to be heard,
  - (c) shall ensure that, so far as is reasonably practicable, the application is determined within six months of being made,
  - (d) may make or refuse the declaration asked for,
  - (e) shall, whether he makes or refuses the declaration, give reasons for his decision in writing, and
  - (f) may make written observations on any matter arising from, or connected with, the proceedings.
- (3) If he makes a declaration he shall specify in it—
  - (a) the provisions of section 71 breached, and
  - (b) the amount of the funds applied in breach.
- (4) If he makes a declaration and is satisfied that the union has taken or agreed to take steps with a view to—
  - (a) remedying the declared breach, or
  - (b) securing that a breach of the same or any similar kind does not occur in future,he shall specify those steps in making the declaration.
- (5) If he makes a declaration he may make such order for remedying the breach as he thinks just under the circumstances.
- (6) Where the Certification Officer requests a 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, unless he considers that it would be inappropriate to do so, shall proceed with his determination of the application notwithstanding that the information has not been furnished to him by the specified date.
- (7) A declaration made by the Certification Officer under this section may be relied on as if it were a declaration made by the court.
- (8) Where an order has been made under this section, any person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if he had made the application on which the order was made.
- (9) An order made by the Certification Officer under this section may be enforced in the same way as an order of the court.
- (10) If a person applies to the Certification Officer under this section in relation to an alleged breach he may not apply to the court in relation to the breach; but nothing in this subsection shall prevent such a person from exercising any right to appeal against or challenge the Certification Officer's decision on the application to him.
- (11) If—
  - (a) a person applies to the court in relation to an alleged breach, and

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- (b) the breach is one in relation to which he could have made an application to the Certification Officer under this section,  
he may not apply to the Certification Officer under this section in relation to the breach.]

#### Textual Amendments

**F1** S. 72A inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 paras. 1, 13; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. 1** (with Sch. 3 para. 5)

### *Political resolution*

#### **73 Passing and effect of political resolution.**

- (1) A political resolution must be passed by a majority of those voting on a ballot of the members of the trade union held in accordance with this Chapter.
- (2) A political resolution so passed shall take effect as if it were a rule of the union and may be rescinded in the same manner and subject to the same provisions as such a rule.
- (3) If not previously rescinded, a political resolution shall cease to have effect at the end of the period of ten years beginning with the date of the ballot on which it was passed.
- (4) Where before the end of that period a ballot is held on a new political resolution, then—
  - (a) if the new resolution is passed, the old resolution shall be treated as rescinded, and
  - (b) if it is not passed, the old resolution shall cease to have effect at the end of the period of two weeks beginning with the date of the ballot.

#### **74 Approval of political ballot rules.**

- (1) A ballot on a political resolution must be held in accordance with rules of the trade union (its “political ballot rules”) approved by the Certification Officer.
- (2) Fresh approval is required for the purposes of each ballot which it is proposed to hold, notwithstanding that the rules have been approved for the purposes of an earlier ballot.
- (3) The Certification Officer shall not approve a union’s political ballot rules unless he is satisfied that the requirements set out in—
 

section 75 (appointment of independent scrutineer),

section 76 (entitlement to vote),

section 77 (voting), <sup>F2</sup> . . . [<sup>F3</sup>section 77A (counting of votes etc. by independent person), and]

section 78 (scrutineer’s report),

would be satisfied in relation to a ballot held by the union in accordance with the rules.

#### Textual Amendments

**F2** Word in s. 74(3) repealed (30.8.1993) by 1993 c. 19, s. 51, **Sch.10**; S.I. 1993/1908, art. 2(1), **Sch. 1**

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**F3** Words in s. 74(3) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para.1**; S.I. 1993/1908, art. 2(1), **Sch.1**

## 75 Appointment of independent scrutineer.

- (1) The trade union shall, before the ballot is held, appoint a qualified independent person (“the scrutineer”) to carry out—
- (a) the functions in relation to the ballot which are required under this section to be contained in his appointment; and
  - (b) such additional functions in relation to the ballot as may be specified in his appointment.
- (2) A person is a qualified independent person in relation to a ballot if—
- (a) he satisfies such conditions as may be specified for the purposes of this section by order of the Secretary of State or is himself so specified; and
  - (b) the trade union has no grounds for believing either that he will carry out any functions conferred on him in relation to the ballot otherwise than competently or that his independence in relation to the union, or in relation to the ballot, might reasonably be called into question.

An order under paragraph (a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) The scrutineer’s appointment shall require him—
- (a) to be the person who supervises the production [<sup>F4</sup>of the voting papers and (unless he is appointed under section 77A to undertake the distribution of the voting papers) their distribution] and to whom the voting papers are returned by those voting;
  - [<sup>F5</sup>(aa) to—
    - (i) inspect the register of names and addresses of the members of the trade union, or
    - (ii) examine the copy of the register as at the relevant date which is supplied to him in accordance with subsection (5A)(a),
 whenever it appears to him appropriate to do so and, in particular, when the conditions specified in subsection (3A) are satisfied;]
  - (b) to take such steps as appear to him to be appropriate for the purpose of enabling him to make his report (see section 78);
  - (c) to make his report to the trade union as soon as reasonably practicable after the last date for the return of voting papers; and
  - (d) to retain custody of all voting papers returned for the purposes of the ballot [<sup>F6</sup>and the copy of the register supplied to him in accordance with subsection (5A)(a)]—
    - (i) until the end of the period of one year beginning with the announcement by the union of the result of the ballot; and
    - (ii) if within that period an application is made under section 79 (complaint of failure to comply with ballot rules), until the Certification Officer or the court authorises him to dispose of the papers [<sup>F7</sup>or copy].

[<sup>F8</sup>(3A) The conditions referred to in subsection (3)(aa) are—

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- (a) that a request that the scrutineer inspect the register or examine the copy is made to him during the appropriate period by a member of the trade union who suspects that the register is not, or at the relevant date was not, accurate and up-to-date, and
  - (b) that the scrutineer does not consider that the member's suspicion is ill-founded.
- (3B) In subsection (3A) “the appropriate period” means the period—
- (a) beginning with the day on which the scrutineer is appointed, and
  - (b) ending with the day before the day on which the scrutineer makes his report to the trade union.
- (3C) The duty of confidentiality as respects the register is incorporated in the scrutineer's appointment.]
- (4) The trade union shall ensure that nothing in the terms of the scrutineer's appointment (including any additional functions specified in the appointment) is such as to make it reasonable for any person to call the scrutineer's independence in relation to the union into question.
- (5) The trade union shall, before the scrutineer begins to carry out his functions, either—
- (a) send a notice stating the name of the scrutineer to every member of the union to whom it is reasonably practicable to send such a notice, or
  - (b) take all such other steps for notifying members of the name of the scrutineer as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.
- [<sup>F9</sup>(5A) The trade union shall—
- (a) supply to the scrutineer as soon as is reasonably practicable after the relevant date a copy of the register of names and addresses of its members as at that date, and
  - (b) comply with any request made by the scrutineer to inspect the register.
- (5B) Where the register is kept by means of a computer the duty imposed on the trade union by subsection (5A)(a) is either to supply a legible printed copy or (if the scrutineer prefers) to supply a copy of the computer data and allow the scrutineer use of the computer to read it at any time during the period when he is required to retain custody of the copy.]
- (6) The trade union shall ensure that the scrutineer duly carries out his functions and that there is no interference with his carrying out of those functions which would make it reasonable for any person to call the scrutineer's independence in relation to the union into question.
- (7) The trade union shall comply with all reasonable requests made by the scrutineer for the purposes of, or in connection with, the carrying out of his functions.
- [<sup>F10</sup>(8) In this section “the relevant date” means—
- (a) where the trade union has rules determining who is entitled to vote in the ballot by reference to membership on a particular date, that date, and
  - (b) otherwise, the date, or the last date, on which voting papers are distributed for the purposes of the ballot.]

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### Textual Amendments

- F4** Words in s. 75(3)(a) substituted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 2(a)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F5** S. 75(3)(aa) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 2(b)**; S.I. 1993/1908, art. 2(1), **Sch.1**
- F6** Words in s. 75(3)(d) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 2(c)(i)**; S.I. 1993/1908, art. 2(1), **Sch.1**
- F7** Words in s. 75(3)(d)(ii) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 2(c)(ii)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F8** S. 75(3A)-(3C) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 2(d)**; S.I. 1993/1908, art. 2(1), **Sch.1**
- F9** S. 75(5A)(5B) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 2(e)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F10** S. 75(8) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 2(f)**; S.I. 1993/1908, art. 2(1), **Sch. 1**

### 76 Entitlement to vote.

Entitlement to vote in the ballot shall be accorded equally to all members of the trade union.

### 77 Voting.

- (1) The method of voting must be by the marking of a voting paper by the person voting.
- (2) Each voting paper must—
  - (a) state the name of the independent scrutineer and clearly specify the address to which, and the date by which, it is to be returned, and
  - (b) be given one of a series of consecutive whole numbers every one of which is used in giving a different number in that series to each voting paper printed or otherwise produced for the purposes of the ballot, and
  - (c) be marked with its number.
- (3) 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.
- (4) So far as is reasonably practicable, every person who is entitled to vote in the ballot must—
  - (a) have a voting paper sent to him by post at his home address or another address which he has requested the trade union in writing to treat as his postal address, and
  - (b) be given a convenient opportunity to vote by post.
- (5) 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.

For the purposes of paragraph (b) an inaccuracy in counting shall be disregarded if it is accidental and on a scale which could not affect the result of the ballot.

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### [<sup>F11</sup>77A Counting of votes etc. by independent person.

- (1) The trade union shall ensure that—
  - (a) the storage and distribution of the voting papers for the purposes of the ballot, and
  - (b) the counting of the votes cast in the ballot,
 are undertaken by one or more independent persons appointed by the union.
- (2) A person is an independent person in relation to a ballot if—
  - (a) he is the scrutineer, or
  - (b) he is a person other than the scrutineer and the trade union has no grounds for believing either that he will carry out any functions conferred on him in relation to the ballot otherwise than competently or that his independence in relation to the union, or in relation to the ballot, might reasonably be called into question.
- (3) An appointment under this section shall require the person appointed to carry out his functions so as to minimise the risk of any contravention of requirements imposed by or under any enactment or the occurrence of any unfairness or malpractice.
- (4) The duty of confidentiality as respects the register is incorporated in an appointment under this section.
- (5) Where the person appointed to undertake the counting of votes is not the scrutineer, his appointment shall require him to send the voting papers back to the scrutineer as soon as reasonably practicable after the counting has been completed.
- (6) The trade union—
  - (a) shall ensure that nothing in the terms of an appointment under this section is such as to make it reasonable for any person to call into question the independence of the person appointed in relation to the union,
  - (b) shall ensure that a person appointed under this section duly carries out his functions and that there is no interference with his carrying out of those functions which would make it reasonable for any person to call into question the independence of the person appointed in relation to the union, and
  - (c) shall comply with all reasonable requests made by a person appointed under this section for the purposes of, or in connection with, the carrying out of his functions.]

#### Textual Amendments

**F11** S. 77A inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para.3**; S.I. 1993/1908, art. 2(1), **Sch. 1**

### 78 Scrutineer's report.

- (1) The scrutineer's report on the ballot shall state—
  - (a) the number of voting papers distributed for the purposes of the ballot,
  - (b) the number of voting papers returned to the scrutineer,
  - (c) the number of valid votes cast in the ballot for and against the resolution,<sup>F12</sup> . . .
  - (d) the number of spoiled or otherwise invalid voting papers returned [<sup>F13</sup>and.
  - (e) the name of the person (or of each of the persons) appointed under section 77A or, if no person was so appointed, that fact.]



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- (2) The report shall also state whether the scrutineer is satisfied—
- (a) that there are no reasonable grounds for believing that there was any contravention of a requirement imposed by or under any enactment in relation to the ballot,
  - (b) that the arrangements made [<sup>F14</sup>(whether by him or any other person)] with respect to the production, storage, distribution, return or other handling of the voting papers used in the ballot, and the arrangements for the counting of the votes, included all such security arrangements as were reasonably practicable for the purpose of minimising the risk that any unfairness or malpractice might occur, and
  - (c) that he has been able to carry out his functions without such interference as would make it reasonable for any person to call his independence in relation to the union into question;

and if he is not satisfied as to any of those matters, the report shall give particulars of his reasons for not being satisfied as to that matter.

[<sup>F15</sup>(2A) The report shall also state—

- (a) whether the scrutineer—
  - (i) has inspected the register of names and addresses of the members of the trade union, or
  - (ii) has examined the copy of the register as at the relevant date which is supplied to him in accordance with section 75(5A)(a),
- (b) if he has, whether in the case of each inspection or examination he was acting on a request by a member of the trade union or at his own instance,
- (c) whether he declined to act on any such request, and
- (d) whether any inspection of the register, or any examination of the copy of the register, has revealed any matter which he considers should be drawn to the attention of the trade union in order to assist it in securing that the register is accurate and up-to-date,

but shall not state the name of any member who has requested such an inspection or examination.

- (2B) Where one or more persons other than the scrutineer are appointed under section 77A, the statement included in the scrutineer's report in accordance with subsection (2)(b) shall also indicate—
- (a) whether he is satisfied with the performance of the person, or each of the persons, so appointed, and
  - (b) if he is not satisfied with the performance of the person, or any of them, particulars of his reasons for not being so satisfied.]
- (3) The trade union shall not publish the result of the ballot until it has received the scrutineer's report.
- (4) The trade union shall within the period of three months after it receives the report—
- (a) send a copy of the report to every member of the union to whom it is reasonably practicable to send such a copy; or
  - (b) take all such other steps for notifying the contents of the report to the members of the union (whether by publishing the report or otherwise) as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.

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- (5) Any such copy or notification shall be accompanied by a statement that the union will, on request, supply any member of the union with a copy of the report, either free of charge or on payment of such reasonable fee as may be specified in the notification.
- (6) The trade union shall so supply any member of the union who makes such a request and pays the fee (if any) notified to him.

#### Textual Amendments

- F12** Word in s. 78(1)(c) repealed (30.8.1993) by 1993 c. 19, s. 51, **Sch.10**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F13** S.78(1)(e) and word preceding it inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 4(a)**; S.I. 1993/1908, art. 2(1), **Sch.1**
- F14** Words in s. 78(2)(b) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 4(b)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F15** S. 78(2A)(2B) inserted (30.8.1993) by 1993 c. 19, s. 3, **Sch. 1 para. 4(c)**; S.I. 1993/1908, art. 2(1), **Sch.1**

## 79 Remedy for failure to comply with ballot rules: general.

- (1) The remedy for—
  - (a) the taking by a trade union of a ballot on a political resolution otherwise than in accordance with political ballot rules approved by the Certification Officer, or
  - (b) the failure of a trade union, in relation to a proposed ballot on a political resolution, to comply with the political ballot rules so approved,
 is by way of application under section 80 (to the Certification Officer) or 81 (to the court).
 

**F16** . . . .
- (2) An application under those sections may be made only by a person who is a member of the trade union and, where the ballot has been held, was a member at the time when it was held.  
References in those sections to a person having a sufficient interest are to such a person.
- (3) No such application may be made after the end of the period of one year beginning with the day on which the union announced the result of the ballot.

#### Textual Amendments

- F16** Words in s. 79(1) repealed (25.10.1999) by 1999 c. 26, ss. 29, 44, **Sch. 6 paras. 1, 14, Sch. 9(7)**; S.I. 1999/2830, art. 2(1)(3), **Sch. 1 Pt. I, Sch. 2 Pt. I** (with **Sch. 3 para. 5**)

## 80 Application to Certification Officer.

- (1) A person having a sufficient interest (see section 79(2)) who claims that a trade union—
  - (a) has held a ballot on a political resolution otherwise than in accordance with political ballot rules approved by the Certification Officer, or

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- (b) has failed in relation to a proposed ballot on a political resolution to comply with political ballot rules so approved,  
may apply to the Certification Officer for a declaration to that effect.
- (2) On an application being made to him, the Certification Officer shall—
- (a) make such enquiries as he thinks fit, and
  - (b)<sup>F17</sup> . . . give the applicant and the trade union an opportunity to be heard,  
and may make or refuse the declaration asked for.
- (3) If he makes a declaration he shall specify in it the provisions with which the trade union has failed to comply.
- (4) Where he makes a declaration and is satisfied that 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 does not occur in future, or that the union has agreed to take such steps, he shall in making the declaration specify those steps.
- (5) Whether he makes or refuses a declaration, he shall give reasons for his decision in writing; and the reasons may be accompanied by written observations on any matter arising from, or connected with, the proceedings.
- [<sup>F18</sup>(5A) Where the Certification Officer makes a declaration he shall also, unless he considers that to do so would be inappropriate, make an enforcement order, that is, an order imposing on the union one or more of the following requirements—
- (a) to secure the holding of a ballot in accordance with the order;
  - (b) to take such other steps to remedy the declared failure as may be specified in the order;
  - (c) to abstain from such acts as may be so specified with a view to securing that a failure of the same or a similar kind does not occur in future.
- The Certification Officer shall in an order imposing any such requirement as is mentioned in paragraph (a) or (b) specify the period within which the union must comply with the requirements of the order.
- <sup>F18</sup>(5B) Where the Certification Officer makes an order requiring the union to hold a fresh ballot, he shall (unless he considers that it would be inappropriate to do so in the particular circumstances of the case) require the ballot to be conducted in accordance with the union's political ballot rules and such other provisions as may be made by the order.
- <sup>F18</sup>(5C) Where an enforcement order has been made, any person who is a member of the union and was a member at the time the order was made is entitled to enforce obedience to the order as if he had made the application on which the order was made.]
- (6) In exercising his functions under this section the Certification Officer shall ensure that, so far as is reasonably practicable, an application made to him is determined within six months of being made.
- (7) Where he requests a 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 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.

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<sup>F19</sup>(8) A declaration made by the Certification Officer under this section may be relied on as if it were a declaration made by the court.

<sup>F19</sup>(9) An enforcement order made by the Certification Officer under this section may be enforced in the same way as an order of the court.

<sup>F19</sup>(10) The following paragraphs have effect if a person applies under section 81 in relation to a matter—

- (a) that person may not apply under this section in relation to that matter;
- (b) on an application by a different person under this section in relation to that matter, the Certification Officer shall have due regard to any declaration, order, observations, or reasons made or given by the court regarding that matter and brought to the Certification Officer's notice.]

#### Textual Amendments

**F17** Words in s. 80(2)(b) repealed (25.10.1999) by 1999 c. 26, ss. 29, 44, Sch. 6 paras. 1, 15(1)(2), **Sch. 9(7)**; S.I. 1999/2380, art. 2(1)(3), Sch. 1 Pt. I, **Sch. 2 Pt. I** (with Sch. 3 para. 5)

**F18** S. 80(5A)-(5C) inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 paras. 1, **15(1)(3)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 5)

**F19** S. 80(8)-(10) inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 paras. 1, **15(1)(4)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 5)

## 81 Application to court.

(1) A person having a sufficient interest (see section 79(2)) who claims that a trade union—

- (a) has held a ballot on a political resolution otherwise than in accordance with political ballot rules approved by the Certification Officer, or
- (b) has failed in relation to a proposed ballot on a political resolution to comply with political ballot rules so approved,

may apply to the court for a declaration to that effect.

<sup>F20</sup>(2) . . . . .

(3) If the court makes the declaration asked for, it shall specify in the declaration the provisions with which the trade union has failed to comply.

(4) Where the court makes a declaration it shall also, unless it considers that to do so would be inappropriate, make an enforcement order, that is, an order imposing on the union one or more of the following requirements—

- (a) to secure the holding of a ballot in accordance with the order;
- (b) to take such other steps to remedy the declared failure as may be specified in the order;
- (c) to abstain from such acts as may be so specified with a view to securing that a failure of the same or a similar kind does not occur in future.

The court shall in an order imposing any such requirement as is mentioned in paragraph (a) or (b) specify the period within which the union must comply with the requirements of the order.

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- (5) Where the court makes an order requiring the union to hold a fresh ballot, the court shall (unless it considers that it would be inappropriate to do so in the particular circumstances of the case) require the ballot to be conducted in accordance with the union's political ballot rules and such other provisions as may be made by the order.
- (6) Where an enforcement order has been made, any person who is a member of the union and was a member at the time the order was made is entitled to enforce obedience to the order as if he had made the application on which the order was made.
- (7) Without prejudice to any other power of the court, the court may on an application under this section grant such interlocutory relief (in Scotland, such interim order) as it considers appropriate.
- [<sup>F21</sup>(8) The following paragraphs have effect if a person applies under section 80 in relation to a matter—
- (a) that person may not apply under this section in relation to that matter;
  - (b) on an application by a different person under this section in relation to that matter, the court shall have due regard to any declaration, order, observations or reasons made or given by the Certification Officer regarding that matter and brought to the court's notice.]

#### Textual Amendments

**F20** S. 81(2) repealed (25.10.1999) by 1999 c. 26, ss. 29, 44, Sch. 6 paras. 1, 16(1)(2), Sch. 9(7); S.I. 1999/2830, art. 2(1)(3), Sch. 1 Pt. I, Sch. 2 Pt. I (with Sch. 3 para. 5)

**F21** S. 81(8) inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 para. 1, 16(1)(3); S.I. 1999/2830, art. 2(1), Sch. 1 Pt. I (with Sch. 3 para. 5)

### *The political fund*

## 82 Rules as to political fund.

- (1) The trade union's rules must provide—
- (a) that payments in the furtherance of the political objects to which this Chapter applies shall be made out of a separate fund (the “political fund” of the union);
  - (b) that a member of the union who gives notice in accordance with section 84 that he objects to contributing to the political fund shall be exempt from any obligation to contribute to it;
  - (c) that a member shall not by reason of being so exempt—
    - (i) be excluded from any benefits of the union, or
    - (ii) be placed in any respect either directly or indirectly under a disability or at a disadvantage as compared with other members of the union (except in relation to the control or management of the political fund);
 and
  - (d) that contribution to the political fund shall not be made a condition for admission to the union.
- (2) A member of a trade union who claims that he is aggrieved by a breach of any rule made in pursuance of this section may complain to the Certification Officer.

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[<sup>F22</sup>(2A) On a complaint being made to him the Certification Officer shall make such enquiries as he thinks fit.]

(3) Where, after giving the member and a representative of the union an opportunity of being heard, the Certification Officer considers that a breach has been committed, he may make such order for remedying the breach as he thinks just under the circumstances.

[<sup>F23</sup>(3A) Where the Certification Officer requests a 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, unless he considers that it would be inappropriate to do so, shall proceed with his determination of the application notwithstanding that the information has not been furnished to him by the specified date.]

[<sup>F24</sup>(4A) Where an order has been made under this section, any person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if he had made the complaint on which it was made.

(4B) An order made by the Certification Officer under this section may be enforced—  
 (a) in England and Wales, in the same way as an order of the county court;  
 (b) in Scotland, in the same way as an order of the sheriff.]

#### Textual Amendments

- F22** S. 82(2A) inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 paras. 1, **17(1)(2)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 5)
- F23** S. 82(3A) inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 paras. 1, **17(1)(3)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 5)
- F24** S. 82(4A)(4B) substituted for s. 82(4) (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 6**; S.I. 2005/872, **art. 4**, Sch. (with arts. 6-21)

### 83 Assets and liabilities of political fund.

(1) There may be added to a union's political fund only—  
 (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) The rules of the union shall not be taken to require any member to contribute to the political fund at a time when there is no political resolution in force in relation to the union.

(3) No liability of a union's political fund shall be discharged out of any other fund of the union.

This subsection applies notwithstanding any term or condition on which the liability was incurred or that an asset of the other fund has been charged in connection with the liability.

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## 84 Notice of objection to contributing to political fund.

- (1) A member of a trade union may give notice in the following form, or in a form to the like effect, that he objects to contribute to the political fund:—

Name of Trade Union

POLITICAL FUND (EXEMPTION NOTICE)

I give notice that I object to contributing to the Political Fund of the Union, and am in consequence exempt, in manner provided by Chapter VI of Part I of the Trade Union and Labour Relations (Consolidation) Act 1992, from contributing to that fund.

A.B. Address  
day of 19

- (2) On the adoption of a political resolution, notice shall be given to members of the union acquainting them—
- (a) that each member has a right to be exempted from contributing to the union's political fund, and
  - (b) that a form of exemption notice can be obtained by or on behalf of a member either by application at or by post from—
    - (i) the head office or any branch office of the union, or
    - (ii) the office of the Certification Officer.
- (3) The notice to members shall be given in accordance with rules of the union approved for the purpose by the Certification Officer, who shall have regard in each case to the existing practice and character of the union.
- (4) On giving an exemption notice in accordance with this section, a member shall be exempt from contributing to the union's political fund—
- (a) where the notice is given within one month of the giving of notice to members under subsection (2) following the passing of a political resolution on a ballot held at a time when no such resolution is in force, as from the date on which the exemption notice is given;
  - (b) in any other case, as from the 1st January next after the exemption notice is given.
- (5) An exemption notice continues to have effect until it is withdrawn.

PROSPECTIVE

### [<sup>F25</sup>85 Manner of giving effect to section 84

- (1) A union that has a political fund must either—
- (a) make a separate levy of contributions to that fund from the members who are contributors, or
  - (b) relieve members who are not contributors from the payment of the appropriate portion of any periodical contribution required from members towards the expenses of the union.
- (2) In the latter case, the rules shall provide—
- (a) that relief shall be given as far as possible to all members who are not contributors on the occasion of the same periodical payment, and

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- (b) for enabling each member of the union to know what portion (if any) of any periodical contribution payable by the member is a contribution to the political fund.]

#### Textual Amendments

**F25** S. 85 substituted (5.12.2016 for specified purposes) by [Trade Union Act 2016 \(c. 15\)](#), **ss. 11(3), 25(1)** (with s. 11(5)); [S.I. 2016/1170](#), **reg. 2(b)**

#### *Duties of employer who deducts union contributions*

### **86 Certificate of exemption or objection to contributing to political fund.**

- (1) If a member of a trade union which has a political fund certifies in writing to his employer that, or to the effect that—
- (a) he is exempt from the obligation to contribute to the fund, or
  - (b) he has, in accordance with section 84, notified the union in writing of his objection to contributing to the fund,
- the employer shall ensure that no amount representing a contribution to the political fund is deducted by him from emoluments payable to the member.
- (2) The employer's duty under subsection (1) applies from the first day, following the giving of the certificate, on which it is reasonably practicable for him to comply with that subsection, until the certificate is withdrawn.
- (3) An employer may not refuse to deduct any union dues from emoluments payable to a person who has given a certificate under this section if he continues to deduct union dues from emoluments payable to other members of the union, unless his refusal is not attributable to the giving of the certificate or otherwise connected with the duty imposed by subsection (1).

### **[<sup>F26</sup>87 Complaint in respect of employer's failure.**

- (1) A person who claims his employer has failed to comply with section 86 in deducting or refusing to deduct any amount from emoluments payable to him may present a complaint to an employment tribunal.
- (2) A tribunal shall not consider a complaint under subsection (1) unless it is presented—
- (a) within the period of three months beginning with the date of the payment of the emoluments or (if the complaint relates to more than one payment) the last of the payments, or
  - (b) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented within that period, within such further period as the tribunal considers reasonable.
- (3) Where on a complaint under subsection (1) arising out of subsection (3) (refusal to deduct union dues) of section 86 the question arises whether the employer's refusal to deduct an amount was attributable to the giving of the certificate or was otherwise connected with the duty imposed by subsection (1) of that section, it is for the employer to satisfy the tribunal that it was not.



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- (4) Where a tribunal finds that a complaint under subsection (1) is well-founded—
  - (a) it shall make a declaration to that effect and, where the complaint arises out of subsection (1) of section 86, order the employer to pay to the complainant the amount deducted in contravention of that subsection less any part of that amount already paid to him by the employer, and
  - (b) it may, if it considers it appropriate to do so in order to prevent a repetition of the failure, make an order requiring the employer to take, within a specified time, the steps specified in the order in relation to emoluments payable by him to the complainant.
- (5) A person who claims his employer has failed to comply with an order made under subsection (4)(b) on a complaint presented by him may present a further complaint to an employment tribunal; but only one complaint may be presented under this subsection in relation to any order.
- (6) A tribunal shall not consider a complaint under subsection (5) unless it is presented—
  - (a) after the end of the period of four weeks beginning with the date of the order, but
  - (b) before the end of the period of six months beginning with that date.
- (7) Where on a complaint under subsection (5) a tribunal finds that an employer has, without reasonable excuse, failed to comply with an order made under subsection (4)(b), it shall order the employer to pay to the complainant an amount equal to two weeks' pay.
- (8) Chapter II of Part XIV of the <sup>M3</sup>Employment Rights Act 1996 (calculation of a week's pay) applies for the purposes of subsection (7) with the substitution for section 225 of the following—

For the purposes of this Chapter in its application to subsection (7) of section 87 of the <sup>M4</sup>Trade Union and Labour Relations (Consolidation) Act 1992, the calculation date is the date of the payment, or (if more than one) the last of the payments, to which the complaint related.]

**Textual Amendments**

**F26** S. 87 substituted (1.8.1998) by 1998 c. 8, s. 6; S.I. 1998/1658, art. 2(1), **Sch. 1** (with art. 3(2))

**Marginal Citations**

**M3** 1996 c. 18.

**M4** 1992 c. 52.

<sup>F27</sup>**88** .....

**Textual Amendments**

**F27** S. 88 repealed (1.8.1998) by 1998 c. 8, s. 15, **Sch. 2**; S.I. 1998/2658, art. 2(1), **Sch. 1** (with art. 3(3))

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*Position where political resolution ceases to have effect*

**89 Administration of political fund where no resolution in force.**

- (1) The following provisions have effect with respect to the political fund of a trade union where there ceases to be any political resolution in force in relation to the union.
- (2) If the resolution ceases to have effect by reason of a ballot being held on which a new political resolution is not passed, the union may continue to make payments out of the fund as if the resolution had continued in force for six months beginning with the date of the ballot.

But no payment shall be made which causes the fund to be in deficit or increases a deficit in it.

- (3) There may be added to the fund only—
  - (a) contributions to the fund paid to the union (or to a person on its behalf) before the resolution ceased to have effect, and
  - (b) property which accrues to the fund in the course of administering the assets of the fund.
- (4) The union may, notwithstanding any of its rules or any trusts on which the fund is held, transfer the whole or part of the fund to such other fund of the union as it thinks fit.
- (5) If a new political resolution is subsequently passed, no property held immediately before the date of the ballot by or on behalf of the union otherwise than in its political fund, and no sums representing such property, may be added to the fund.

**90 Discontinuance of contributions to political fund.**

- (1) Where there ceases to be any political resolution in force in relation to a trade union, the union shall take such steps as are necessary to ensure that the collection of contributions to its political fund is discontinued as soon as is reasonably practicable.
- (2) The union may, notwithstanding any of its rules, pay into any of its other funds any such contribution which is received by it after the resolution ceases to have effect.
- (3) If the union continues to collect contributions, it shall refund to a member who applies for a refund the contributions made by him collected after the resolution ceased to have effect.
- (4) A member of a trade union who claims that the union has failed to comply with subsection (1) may apply to the court for a declaration to that effect.
- (5) Where the court is satisfied that the complaint is well-founded, 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.

Such an order may be enforced by a person who is a member of the union and was a member at the time the order was made as if he had made the application.

- (6) The remedy for failure to comply with subsection (1) is in accordance with subsections (4) and (5), and not otherwise; but this does not affect any right to recover sums payable to a person under subsection (3).

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## **91 Rules to cease to have effect.**

- (1) If there ceases to be any political resolution in force in relation to a trade union, the rules of the union made for the purpose of complying with this Chapter also cease to have effect, except so far as they are required to enable the political fund to be administered at a time when there is no such resolution in force.
- (2) If the resolution ceases to have effect by reason of a ballot being held on which a new political resolution is not passed, the rules cease to have effect at the end of the period of six months beginning with the date of the ballot.

In any other case the rules cease to have effect when the resolution ceases to have effect.

- (3) Nothing in this section affects the operation of section 82(2) (complaint to Certification Officer in respect of breach of rules) in relation to a breach of a rule occurring before the rule in question ceased to have effect.
- (4) No member of a trade union who has at any time been exempt from the obligation to contribute to its political fund shall by reason of his having been exempt—
  - (a) be excluded from any benefits of the union, or
  - (b) be placed in any respect either directly or indirectly under a disability or at a disadvantage as compared with other members (except in relation to the control or management of the political fund).

### *Supplementary*

## **92 Manner of making union rules.**

If the Certification Officer is satisfied, and certifies, that rules of a trade union made for any of the purposes of this Chapter and requiring approval by him have been approved—

- (a) by a majority of the members of the union voting for the purpose, or
  - (b) by a majority of delegates of the union at a meeting called for the purpose,
- the rules shall have effect as rules of the union notwithstanding that the rules of the union as to the alteration of rules or the making of new rules have not been complied with.

## **93 Effect of amalgamation.**

- (1) Where on an amalgamation of two or more trade unions—
  - (a) there is in force in relation to each of the amalgamating unions a political resolution and such rules as are required by this Chapter, and
  - (b) the rules of the amalgamated union in force immediately after the amalgamation include such rules as are required by this Chapter,the amalgamated union shall be treated for the purposes of this Chapter as having passed a political resolution.
- (2) That resolution shall 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.

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- (3) Where one of the amalgamating unions is a Northern Ireland union, the references above to the requirements of this Chapter shall be construed as references to the requirements of the corresponding provisions of the law of Northern Ireland.

#### **94 Overseas members of trade union.**

- (1) Where a political resolution is in force in relation to the union—
- (a) rules made by the union for the purpose of complying with section 74 (political ballot rules) 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 84 (notice of right to object to contribute to political fund to be given where resolution passed) may provide for notice not to be given by the union to its overseas members.
- (2) Accordingly, where provision is made in accordance with subsection (1)(a), the Certification Officer shall not on that ground withhold his approval of the rules; and where provision is made in accordance with subsection (1)(b), section 84(2) (duty to give notice) shall not be taken to require notice to be given to overseas members.
- (3) An “overseas member” means a member of the trade union (other than a merchant seaman or offshore worker) who is outside Great Britain throughout the period during which votes may be cast.

For this purpose—

“merchant seaman” means a person whose employment, or the greater part of it, is carried out on board sea-going ships; and

“offshore worker” means a person in offshore employment, other than one who is in such employment in an area where the law of Northern Ireland applies.

#### **95 Appeals from Certification Officer.**

An appeal lies to the Employment Appeal Tribunal on any question of law arising in proceedings before or arising from any decision of the Certification Officer under this Chapter.

#### **96 Meaning of “date of the ballot”.**

In this Chapter 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.

**Status:**

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**Changes to legislation:**

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