

The Trade Union Act 2016



On May 4th, the Trade Union Bill completed the Parliamentary process and became the Trade Union Act 2016. The Act is an extreme and unnecessary piece of legislation that will add significant restrictions on our activity.

The main parts of the original Bill have made it into the final Act, but a number of important concessions have been made by the Government. This is in no small part thanks to the work of UNISON members, branches and officials in lobbying for changes in Parliament. The campaign against the Trade Union Bill has involved lobbies, meetings, and letter-writing over a sustained period of time. Having seen-off some of the potentially serious attacks, we will be able to continue to effectively represent members and campaign for a better society.

In September/October, the region will be holding briefings on the Act across the North West. This document briefly summarises some of the main changes that are to be introduced. It also identifies some of the proposals that our campaign work helped to defeat, delay or dilute.

Industrial Action - Ballots

- Industrial action will be unlawful if fewer than 50% of members take part in a ballot
- In 'important public services' (including health, education and transport) 40% of all eligible members must vote to support industrial action. Further regulations will define the services that this additional hurdle applies to. Private sector-employed workers could be included.
- A six-month time limit for industrial action ballot mandates (which can be extended to nine months if agreed by union and employer)
- The notice period that unions must give employers prior to taking action will be 14 days, or 7 days by agreement.

Concessions

- The Act requires the Government to hold an independent review of electronic balloting.
- A ballot of ancillary workers in important public services does not need to clear the 40% hurdle.
- The Government had originally wanted to cut the length of a ballot mandate to four months.
- The Bill originally did not have any provision for a shorter notice period by agreement prior to action.

Industrial Action – Picketing

- Picket supervisors must make themselves known to police and employers and carry a letter of authorisation.
- Breaches of picketing restrictions will in future attract criminal charges

Concessions

- Proposals to monitor and control the use of social media during disputes have been dropped.
- Original proposals to require everyone on a picket line show to show their personal data to the police, employers or anyone else who asks to see it have been dropped
- The Government has not moved to repeal the ban on employers hiring agency staff to provide cover during strikes.

Political campaigning

- New members will be required to 'opt in' to the union's political fund

Concessions

- The demand that members opt in rather than opt out will be delayed for 12 months and will only apply to new members rather than all members as originally proposed.

Facility time and check-off

- Employers in the public sector (and some publicly-funded private companies and CVS employers) will be required to publish information on the amount spent on paid time off for union duties and activities. Further regulations will define which employers are covered.
- The Government could in future intervene to cap the amount of facility time granted by an individual employer.
- Public sector employers (and some publicly-funded private companies and CVS employers) will only be allowed to make check-off deductions if alternative means are available to staff and if the union makes reasonable payments towards the costs.

Concessions

- Lobbying led to the Lords removing the proposal to cap facility time but the Government has reinstated it. The cap will not be introduced before research has been undertaken.
- The original plan to ban check-off in the public sector has been stopped.

- The Government has said that it will not implement changes to check-off arrangements for twelve months.

Certification Officer

- The Act introduces new powers for the Certification Officer (CO) to investigate and take enforcement action, including the imposition of financial penalties, against trade unions for breaches of their statutory duties.

Concessions

- The Government inserted a clause saying the CO would not be 'subject to directions of any kind from any Minister of the Crown as to the manner in which he is to exercise his functions'.

The full text of the Trade Union Act 2016 is available here:

http://www.legislation.gov.uk/ukpga/2016/15/pdfs/ukpga_20160015_en.pdf

The Act will impact on the way that we operate as a union. There will be further updates and briefings over the coming months as the details, timings and practical effects of the changes become clearer.