

Committee: Establishment Committee	Date 9 June 2016
Subject: Trade Union Act	Public
Report of: Remembrancer	For Information
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Summary

This report advises the Committee of the enactment of the Trade Union Act, the Bill for which was the subject of a report to the Committee last year. The most significant measures in the Act are the introduction of minimum turnout thresholds for industrial ballots and a requirement for union members actively to opt in to financial contributions to political activity. Of more direct interest to the Committee is a new requirement to publish information about ‘facility time’ afforded to union representatives employed by public sector bodies. Plans to end ‘check-off’ (the automatic deduction of union subscription fees from pay packets) in the public sector were abandoned in the face of opposition in the House of Lords, but the costs of such arrangements will in future have to be funded by the unions.

Recommendation

It is recommended that the Committee notes the report.

Main Report

1. The Trade Union Bill was the subject of a written report to the Committee in October last year. It has now completed its passage through Parliament and entered into law as the Trade Union Act 2016.
2. As described in the earlier report, the main proposal in the Bill was the introduction of minimum turnout thresholds for ballots on industrial action. The Government intends to use the measure to require fifty per cent of eligible union members to vote in order for a ballot to be valid, with a further requirement in certain key public sectors that forty per cent of eligible members vote in favour of the proposed industrial action. Those key sectors include health, education, fire and transport, but not local government. In order to secure agreement to the thresholds in the House of Lords, the Government agreed to carry out a review of the feasibility of allowing electronic balloting, which unions believe will encourage higher turnouts.
3. The other main controversy during the passage of the Bill concerned a proposal to require union members actively to opt in to financial contributions to political activity carried on by or through the union (including donations to political parties). Following cross-party opposition in the Lords, the Government conceded that the measure should apply only to those who become union members after the new law takes effect, and the Act provides accordingly.
4. A provision of more direct interest to the Committee will require public sector bodies to publish information about the ‘facility time’—time allocated for

carrying out union duties—afforded to union officials employed by them. The details of the information to be published will be contained in regulations, but are likely to include the number of union officials employed, the proportion of their paid time spent on union activities, and the proportion of the employer's total pay bill spent on facility time. So far as local government is concerned, such requirements will overlap substantially with those already laid down in the Local Government Transparency Code. Dialogue with officials has clarified that the requirements will apply to the Common Council only in its capacities as a local authority, police authority and port health authority—in effect, in relation to employees paid from public funds. No firm indication has been given as to when the requirements will be brought into force, but it is not expected to be before the autumn.

5. The Bill also proposed a power to impose legal restrictions on facility time in the public sector. The Government indicated that the power was only intended to be used as a last resort if publicity requirements did not curtail what it considered to be the excessive use of facility time in some quarters. After initial resistance in the Lords, this provision was agreed to with the addition of further safeguards. They will mean that the power only becomes available three years after the publicity requirements take effect, and after the employer concerned has been given an opportunity to respond to the Government's concerns.
6. At its meeting last October, the Committee was advised orally that the Government was seeking to insert further provision into the Bill which would end the practice of 'check-off'—the automatic deduction of union subscription fees from pay packets by an employer—in the public sector. Amendments to this effect were agreed to by the Commons but encountered resistance in the Lords. The Government subsequently abandoned its plan to prohibit check-off. Instead, the Act requires that the administrative costs of check-off be met by the union concerned, and that union members be offered alternative means of paying subscription fees. These requirements will have to be applied to the check-off arrangements operated by the Common Council, so far as they concern employees paid from public funds. The Government has indicated that it will wait at least one year before bringing the changes into force, in order to enable the necessary arrangements to be put in place.

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