

Political Funds

The Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) enables trade unions and unincorporated employers’ associations to establish separate funds in furtherance of political objectives as part of their aims. Under the terms of the 1992 Act a resolution to adopt the political objects must be passed by a ballot of the members. The Certification Officer is the statutory authority for approving the establishment and continuance of such funds. This chapter explains the statutory provisions and reports developments in the period 1 April 2016 to 31 March 2017.

The statutory provisions

General

7.1 A trade union or an unincorporated employers’ association (whether listed or not) can include the furtherance of political objects among its objects. A resolution to adopt political objects must be passed by the members in a postal ballot held under rules which must have been approved by the Certification Officer. An independent scrutineer must be appointed to oversee the ballot. If political objects are adopted, the organisation must also adopt political fund rules which will govern the expenditure of funds on such objects. Those rules must again be approved by the Certification Officer.

Exemption from contributing (for members who joined before 1 March 2018)

7.2 It is a statutory requirement that members who notify their objection to contributing to the political fund must be exempted. These exempt members must not be excluded from any benefits of the organisation or placed under any disability or disadvantage compared with other members (except in relation to the control or management of the political fund). Also, contribution to the political fund must not be made a condition for admission to the organisation.

7.3 Members wishing to claim exemption must use an approved application form as prescribed in the 1992 Act or make an application giving the same information. Unless contributions to the political fund are collected by a separate levy, exempt members of the organisation must be relieved from the payment of the political fund element of the normal periodical contributions. The rules must provide for such relief to be given as far as possible to all exempt members on the occasion of the same periodical contribution. They must also provide for each member to know what portion, if any, of his or her contribution is a contribution to the political fund.

Effect of the Trade Union Act 2016 (“the 2016 Act”)

7.4 The provisions of the 1992 Act relating to political funds were amended by the 2016 Act during the reporting period. This means that members who join a trade union with a political fund from 1 March 2018 (the end of a one year “transition period” beginning on 1 March 2017) cannot be required to contribute to the political fund unless they

have given notice of their willingness to contribute to that fund (an “opt-in notice”). Such members may also withdraw an opt-in notice by giving a “withdrawal notice”. Unions must notify members who join the union after the transition period of their right to provide a withdrawal notice. This notification must be given not later than the end of the period of eight weeks beginning with the day on which the annual return of the union is sent to me. The trade union must then send me a copy of the notification which is provided to its members as soon as is reasonably practicable after it is given. This applies to annual returns which are sent from 1 March 2018 onwards. In addition, application forms for members who join from 1 March 2018 must include a statement to the effect that a member may choose to contribute to the political fund and that a member will not suffer any detriment should they choose not to contribute.

Amended political fund rules

- 7.5 The political fund rules of all unions with political funds were required to be amended during the reporting period to reflect the above changes. Twenty-one unions fell under this requirement, all of which applied for approval of their amended rules. All of these were approved by 28 February 2018 in time for the commencement of the new requirements brought in by the 2016 Act. The Office identified some rules which required minor amendments, this was largely caused by difficulties with the guidance issued by this Office.

Complaints

- 7.6 Any member of an organisation with a political fund who considers that the political fund rules have been breached may complain to the Certification Officer. If, after investigating the complaint, the Certification Officer considers that a breach has occurred, she may make an order to remedy it.
- 7.7 A member can complain to the Certification Officer if a political fund ballot has been held, or is proposed to be held, in a way that does not comply with the rules for holding the ballot. Any complaint must be made within the period of one year beginning with the date on which the result of the ballot is announced by the union.
- 7.8 A trade union member who claims that his or her trade union has spent money on political objects without a political fund resolution being in force or without approved political fund rules may apply to the Certification Officer for a declaration that it has done so. If the Certification Officer makes a declaration, she may also make such an order for remedying the breach as she thinks just under the circumstances. Appeals against decisions of the Certification Officer may be made to the Employment Appeal Tribunal on a point of law.

Review ballots

- 7.9 Trade unions and employers’ associations which already have a political fund resolution in force, and wish to continue to spend money on political objects, are required to hold a further ballot of their members at least once every ten years. This review ballot must be held in accordance with rules approved by the Certification Officer.

Guidance on procedures

7.10 On request, the Certification Office gives advice on the procedures for establishing political funds and for holding review ballots. Guidance booklets which include model rules are available on the Certification Officer's website, www.gov.uk/certificationofficer or on request from the Certification Office. Any trade union or employers' association wishing to ballot its members on a political fund resolution should contact the Office at an early stage.

Effect of amalgamations

7.11 Where two or more trade unions, each with a political fund in force, amalgamate, the amalgamated union will be treated under the provisions of section 93 of the 1992 Act as having passed a political fund resolution, provided that the rules of the union in force immediately after the amalgamation include political fund rules. The review ballot cycle (see paragraph 7.9) of such a newly constituted union is treated as having begun from the earliest of the political fund review dates of the amalgamating unions involved.

7.12 Where one or more amalgamating unions does not have a political fund the new amalgamated unions must, if it wishes to have a political fund, establish a new fund by putting a resolution for the furtherance of political objects to its members and adopting political fund rules which must be approved by the Certification Officer.

Political fund resolutions in force

7.13 As at 31 March 2018, there were 21 unions which had political fund resolutions in force. This is a decrease of one from the number that was reported last year. This is because of the changes detailed in paragraphs 7.14 and 7.15 below. The listed and scheduled trade unions in Appendix 1 which have a political fund are identified by the symbol (P).

Organisations with new political fund rules approved for the first time during 2017-2018

7.14 A certificate of approval was given to the political fund rules of National Education Union for the first time on 15 December 2017. This was a new trade union formed by an amalgamation of the National Union of Teachers and the Association of Teachers and Lecturers.

Political funds closed during the period

7.15 The political funds of two unions closed within the period. The first of these was the political fund of National Union of Teachers which closed because the union ceased to exist as a result of amalgamation. The second was the Association of Revenue of Customs which confirmed, on 19 January 2018, the closure of its political fund.

Political fund review ballots

7.16 During the reporting period, two trade unions were required by section 73(3) and 73(4) of the 1992 Act to hold a review ballot (see paragraph 7.9). These were POA and Education Institute of Scotland whose review dates were 15 August 2017 and 11 November 2017 respectively. POA's political fund was approved on 25 October 2017 and the Educational Institute of Scotland's was approved on 13 November 2017, meaning that, for each, there was a period during which their political fund resolution's had lapsed.

Political funds of trade unions at 31 March 2018

- 7.17 Detailed statistical information about the political funds of trade unions is set out in Appendix 9. The statistics are derived from the 24 annual returns which were received during the reporting period from unions with political funds. In all cases, the accounting periods of the returns ended between October 2016 and September 2017 (see paragraph 4.1).
- 7.18 The number of returns received within a reporting period is not always the same as the number of political fund resolutions in force at the end of the reporting period. This is because there are those unions which submitted a final return within the reporting period but which, by the end of the period, had either dissolved their political fund or ceased to exist.
- 7.19 Annual returns received during the period 1 April 2017 to 31 March 2018 contain information derived from annual returns with accounting periods which mainly end in December 2016 (see paragraph 4.1). The relevant annual returns show the total income of political funds as £24.41 million compared with £24.54 million reported during the period 2015-2016, a decrease of 0.52%. The total expenditure from political funds was £22.06 million compared with £25.60 million in the preceding year, a decrease of 13.81%. The returns received within the period also show that the total value of political funds during the reporting period was £34.03 million: up £2.32 million (6.81%) on the £31.71 million reported in 2016-2017.

Political fund membership

- 7.20 Appendix 9 also gives membership information provided by those unions which maintained political funds as indicated from the latest annual returns. These returns show that the number of union members contributing to a political fund was 4,652,084 compared with 4,777,168 reported in 2015-2016, a decrease of 125,084 members or 2.6%.

Exemption notices

- 7.21 Exemption notices (see paragraph 7.3) are obtainable from the organisation concerned or from the Certification Office. The Certification Office did not supply any such notices during the period 1 April 2017 to 31 March 2018. The annual returns recorded 785,686 members who belong to unions with a political fund but who do not make a political fund contribution, either because they have claimed exemption or they belong to a category of membership which, under the rules of the union, does not contribute to the political fund.

Notification of members' right to give a withdrawal notice

- 7.22 No notifications to members of their right to give a withdrawal notice (see paragraph 7.4) were received during the one month which fell within this reporting period.

Political fund complaints

- 7.23 During the period 1 April 2017 to 31 March 2018, the Certification Officer received one complaint regarding the use of a trade union's fund for political purposes. This complaint has yet to be determined.