



Trade Union Act 1984

1984 CHAPTER 49

PART II

SECRET BALLOTS BEFORE INDUSTRIAL ACTION

- 10 Industrial action authorised or endorsed by trade union without support of a ballot**
- (1) Nothing in section 13 of the 1974 Act shall prevent an act done by a trade union without the support of a ballot from being actionable in tort (whether or not against the trade union) on the ground that it induced a person to break his contract of employment or to interfere with its performance.
 - (2) Nothing in section 13 of the 1974 Act shall prevent an act done by a trade union from being actionable in tort (whether or not against the trade union) on the ground that it induced a person to break a commercial contract or to interfere with its performance where—
 - (a) one of the facts relied upon for the purpose of establishing liability is that the union induced another person to break his contract of employment or to interfere with its performance ; and
 - (b) by virtue of subsection (1) above, nothing in section 13 of the 1974 Act would prevent the act of inducement referred to in paragraph (a) above from being actionable in tort.
 - (3) For the purposes of subsection (1) above, an act shall be taken as having been done with the support of a ballot if, but only if—
 - (a) the trade union has held a ballot in respect of the strike or other industrial action in the course of which the breach or interference referred to in subsection (1) above occurred;
 - (b) the majority of those voting in the ballot have answered " Yes " to the appropriate question ;
 - (c) the first authorisation or endorsement of any relevant act, and in the case of an authorisation the relevant act itself, took place after the date of the ballot and before the expiry of the period of four weeks beginning with that date; and

Status: This is the original version (as it was originally enacted).

(d) section 11 of this Act has been satisfied in relation to the ballot.

(4) In subsection (3)(b) above " appropriate question" means—

- (a) where the industrial action mentioned in subsection (3)(a) above is, or includes, a strike, the question referred to in subsection (4)(a) of section 11; and
- (b) in any other case, that referred to in subsection (4)(b) of that section.

(5) In this Part—

"the 1974 Act" means the Trade Union and Labour Relations Act 1974;

" authorisation or endorsement" means an authorisation or endorsement of an act which, by virtue of section 15 of the Employment Act 1982, causes the act to be taken, for the purposes mentioned in that section, to have been done by the trade union;

" commercial contract" means any contract which is not a contract of employment;

" contract of employment" has the same meaning as it has in the 1974 Act by virtue of section 30;

" 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;

" relevant act" means an act (done in the course of the action mentioned in subsection (3)(a) above) of inducing a person to break his contract of employment or to interfere with its performance;

" tort ". as respects Scotland, means delict;

" trade union " has the same meaning as it has in the 1974 Act by virtue of section 28 ;

and any reference to a breach or interference occurring in the course of a strike or other industrial action includes a reference to a breach or interference which, taken together with any corresponding action relating to other contracts of employment, constitutes that action.