

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 3.

POLITICAL FUND BALLOTS

Extent Information

E1 Sch. 1 extends to Northern Ireland for limited purposes, see s. 54(3)(a).

Modifications etc. (not altering text)

C1 Sch. 1 restricted (27.7.1993) by S.I. 1993/1908, art. 3(2).

- 1 In section 74(3) of the 1992 Act (requirements which Certification Officer must be satisfied would be met in relation to political fund ballot held by trade union in accordance with its rules), after the entry relating to section 77 there shall be inserted— “ section 77A (counting of votes etc. by independent person), and ”.
- 2 In section 75 of that Act (appointment of independent scrutineer for political fund ballot)—
- (a) in paragraph (a) (scrutineer to supervise certain matters) of subsection (3) (terms of appointment of scrutineer), for the words and distribution of the voting papers there shall be substituted the words “ of the voting papers and (unless he is appointed under section 77A to undertake the distribution of the voting papers) their distribution ”,
- (b) after that paragraph there shall be inserted—
- “(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;”,
- (c) in paragraph (d) (scrutineer to retain custody of voting papers) of that subsection—
- (i) after the words purposes of the ballot there shall be inserted the words “ and the copy of the register supplied to him in accordance with subsection (5A)(a) ”, and
- (ii) after the words of the papers there shall be inserted the words “ or copy ”,
- (d) after that subsection there shall be inserted—
- “(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.”,

(e) after subsection (5) there shall be inserted—

“(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.”, and

(f) after subsection (7) there shall be inserted—

“(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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After section 77 of that Act there shall be inserted—

“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

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- (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.”
- 4 In section 78 of that Act (scrutineer’s report on ballot)—
- (a) in subsection (1), after paragraph (d) there shall be inserted “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.”,
 - (b) in subsection (2)(b), after the word made there shall be inserted “ (whether by him or any other person) ”, and
 - (c) after that subsection there shall be inserted—
 - “(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

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- (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.”.

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