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SCHEDULES

SCHEDULE 3

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

TRADE UNIONS

The Trade Union Act 1984 (c. 49)

- 5 (1) In subsection (1)(a) of section 1 of the 1984 Act (duty of trade union to hold elections for certain positions), for the word “has” there shall be substituted the words “and, in the case of an election held after the coming into force of any provision of section 13 or 15 of the Employment Act 1988, the requirements imposed by virtue of that provision have”.
- (2) In section 2 of that Act—
- (a) in subsection (5) (method of voting in election), at the end there shall be inserted the words “; and each voting paper—
 - (a) must clearly specify the address to which, and the date by which, the voting paper is to be returned;
 - (b) must be given one of a series of consecutive whole numbers every one of which is used in giving a different number in that series to each voting paper printed or otherwise produced for the purposes of the election; and
 - (c) must be marked with its number.”;
- and
- (b) in subsection (13) (exclusion of overseas members), at the end there shall be inserted the words “except, in the case of subsections (5) to (8), where the union has chosen to accord that member entitlement to vote in the ballot.”
- (3) In section 4 of that Act (register of members’ names and addresses), after subsection (2) there shall be inserted the following subsection—
- “(2A) It shall be the duty of every trade union—
- (a) free of charge and at any reasonable time, to allow a member of the union who gives the union reasonable notice of his intention to do so to ascertain from the register whether there is an entry on the register relating to that member; and
 - (b) if requested to do so by any member of the union, to supply that member, as soon as reasonably practicable after receiving the request and either free of charge or on payment of a reasonable fee, with a copy of any such entry.”

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- (4) In section 5 of that Act (remedy for failure to comply with one or more of the provisions of Part I of that Act)—
- (a) in subsections (1) and (10), after the word “Part” there shall be inserted the words “or, in relation to any election which has been or is proposed to be held for the purposes of this Part, with one or more of the provisions of section 13 or 15 of the Employment Act 1988”;
 - (b) in subsection (8), for paragraphs (a) and (b) there shall be substituted the words “in accordance with section 2 of this Act and such other provisions as may be made by the order and for the requirements of sections 13 and 15 of the Employment Act 1988 to be satisfied in relation to the election.”; and
 - (c) after subsection (12) there shall be inserted the following subsection—

“(12A) The requirements of subsection (1) or (12) above that a person making an application under this section in relation to an election or seeking to enforce obedience to an enforcement order in relation to an election must be or have been a member of the union at a particular time shall not apply where the person who makes the application or seeks to enforce obedience to the order is or was a candidate in the election.”
- (5) In section 8 of that Act (exemption for certain persons nearing retirement)—
- (a) in subsection (1), the word “voting” shall be omitted;
 - (b) in subsection (2)(a), for the word “has” there shall be substituted the words “and the requirements of sections 13 and 15 of the Employment Act 1988 have”;
 - (c) in subsection (4), at the end there shall be inserted the words “; and where that election was held before the coming into force of a provision of section 13 or 15 of the Employment Act 1988, that paragraph shall apply as if it did not require the requirements imposed by virtue of that provision to be satisfied in relation to that election.”; and
 - (d) after the said subsection (4) there shall be inserted the following subsection—

“(5) Where any person holds any such position as is mentioned in paragraph (a) of subsection (2) above by virtue of an election held at any time before the coming into force of section 14(2) of the Employment Act 1988 (requirement of postal ballot), section 3 of this Act (non-postal ballots) shall be disregarded in determining for the purposes of that paragraph whether any election is an election in relation to which section 2 of this Act has been satisfied, unless the position to which that person was elected in that election was, at the time of the election, either—

 - (a) a position as a voting member of the principal executive committee of a trade union; or
 - (b) a position by virtue of election to which the person elected would become such a voting member.”
- (6) In section 9(1) of that Act (interpretation of Part I), the following definitions shall be inserted after the definitions of “the Certification Officer” and “single transferable vote”, respectively, that is to say—

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““member”, in relation to a trade union’s principal executive committee, shall be construed in accordance with section 1(6A) to (6C) of this Act;”

““special register body” has the same meaning as it has in the 1974 Act by virtue of section 30;”.

- (7) In section 10 of that Act (liability in tort in respect of action authorised or endorsed without the support of a ballot), for subsection (4) there shall be substituted the following subsections—

“(4) Subject to subsection (4A) below, in this section and section 11 of this Act references to the appropriate question are references to whichever of the questions set out in subsection (4) of section 11 of this Act is applicable to the strike or other industrial action in question.

(4A) Where both the questions mentioned in subsection (4) above are applicable in relation to any industrial action, an act inducing a breach or interference such as is mentioned in subsection (1) above shall be treated as an act for the purposes of which the requirement of paragraph (b) of subsection (3) above is satisfied if but only if that paragraph (or, as the case may be, that paragraph as it has effect by virtue of subsection (3A) above) is satisfied in relation to the question applicable to that part of the action in the course of which the breach or interference occurred .”

- (8) In section 11 of that Act (requirements to be satisfied in relation to the ballot)—

- (a) in paragraph (a) of subsection (1) (persons entitled to vote), for the words from “called” to the end of the paragraph there shall be substituted the words “induced to take part or, as the case may be, to continue to take part in the strike or other industrial action; and”;
- (b) in paragraph (b) of subsection (2) (persons denied entitlement to vote), for the words from “, in”, where it first occurs, to the end of the paragraph there shall be substituted the words “to take part or, as the case may be, to continue to take part in the strike or other industrial action;”
- (c) in subsection (3) (method of voting), at the end there shall be inserted the words “and the following statement must (without being qualified or commented upon by anything else on the voting paper) appear on every voting paper, namely—

“If you take part in a strike or other industrial action, you may be in breach of your contract of employment.””;

- (d) in subsection (4) (appropriate questions), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

“(a) a question (however framed) which requires the person answering it to say, by answering “Yes” or “No”, whether he is prepared to take part or, as the case may be, to continue to take part in a strike;

(b) a question (however framed) which requires the person answering it to say, by answering “Yes” or “No”, whether he is prepared to take part or, as the case may be, to continue to take part in action short of a strike.”;

- (e) for paragraphs (b) and (c) of subsection (8) there shall be substituted the following paragraphs—

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- “(b) individuals answering “Yes” to the question, or as the case may be, to each question;
- (c) individuals answering “No” to the question or, as the case may be, to each question; and”;
- (f) in subsection (11) (interpretation), at the end there shall be inserted the words—

“and section 1(6) of the Employment Act 1988 shall apply for construing references in this section to a person being induced to take part or to continue to take part in any strike or other industrial action as it applies for the purposes of that section.”

- (9) In section 22(6) of that Act (extent and application of Act), after the words “in Northern Ireland” there shall be inserted the words “or in relation to any unincorporated employers’ association which has its head or main office in Northern Ireland”.

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