



Employment Act 1988

1988 CHAPTER 19

PART I

TRADE UNIONS

Provisions as to ballots and elections

12 Extension to non-voting positions of duty to hold elections.

- (1) In subsections (1) to (3) of section 1 of the 1984 Act (duty to hold election of voting members of a trade union's principal executive committee), the word "voting", wherever it occurs, shall be omitted; and after subsection (6) of that section there shall be inserted the following subsections—

“(6A) For the purposes of this section a person is a member of the principal executive committee of a trade union if he is a voting member of that union's principal executive committee or, except in the case of a special register body and subject to subsection (6C) below, if—

- (a) that person is, under the rules of the union, a member, other than a voting member, of that committee (whether by virtue of his holding any position in the union or otherwise); or
- (b) that person may, under the rules or practice of the union, attend and speak at some or all of the meetings of that committee otherwise than for the purpose of providing the committee with factual information or with technical or professional advice with respect to matters taken into account by the committee in carrying out its functions.

(6B) Notwithstanding anything in the rules or practice of any trade union, the persons who hold the following positions in a trade union which is not a special register body shall (if the rules of the union do not otherwise provide for them to be members of the union's principal executive committee) be deemed for the purposes of this section to be members of that committee by virtue of subsection (6A)(b) above, that is to say—

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- (a) the position of president of the union or, in the case of a union with no such position, any equivalent position; and
 - (b) the position of general secretary of the union, or in the case of a union with no such position, the position in the union which is the equivalent, or nearest equivalent, to that of general secretary.
- (6C) For the purposes of this section where any person who holds in any trade union any such position as is mentioned in paragraph (a) or (b) of subsection (6B) above—
- (a) is, in respect of that position, neither a voting member of the principal executive committee of the union nor an employee of the union;
 - (b) holds that position for a period which under the rules of the union cannot end more than thirteen months after he took up that position; and
 - (c) has held neither that position nor any other position so mentioned at any time in the period of twelve months ending with the day before he took up that position,
- that position shall not be regarded for the purposes of this section as a position by virtue of holding which that person is a member of that committee or is deemed under that subsection to be such a member.”
- (2) Without prejudice to section 7(4) to (8) of the 1984 Act (Part I not to apply to a trade union for a year after its formation), where—
- (a) by virtue of any election (including one held before the coming into force of this subsection) a person is a member of a trade union’s principal executive committee at a time after the coming into force of this subsection when that trade union amalgamates with, or transfers its engagements to, another union under the ^{M1}Trade Union (Amalgamations, etc.) Act 1964;
 - (b) under the instrument of amalgamation or transfer, that person becomes a member of the principal executive committee of the trade union formed by the amalgamation or, as the case may be, of the union to which the engagements are transferred (whether by taking up the same position as he held in the amalgamating or transferring union or by taking up any other position); and
 - (c) under Part I of the 1984 Act or the following provisions of this section that person would have been entitled, at the time of the amalgamation or transfer, to continue for any period, without being re-elected, to be a member of the principal executive committee mentioned in paragraph (a) above or, as the case may be, to hold the position by virtue of which he was such a member,
- Part I of that Act shall not apply in relation to that person to the union formed by the amalgamation or, as the case may be, to the union to which the engagements are transferred until the end of the period mentioned in paragraph (c) above.
- (3) Where a person to whom the provisions of section 1 of the 1984 Act are extended by virtue of subsection (1) above was elected as a member of a trade union’s principal executive committee, or to any position in respect of which those provisions are so extended to him, at an election held within the period of five years ending with the coming into force of this section—
- (a) the amendment made by that subsection shall not have the effect of requiring section 2 of that Act (requirements as to elections) to be satisfied in relation to that election; and
 - (b) the period of five years mentioned in subsection (1)(b) of the said section 1 shall be calculated in relation to that person from the date of that election.

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(4) The reference in subsection (3) above to an election held within the period of five years ending with the coming into force of this section does not include a reference to an election in which the only persons entitled to vote were persons who at the time of the election were members of the principal executive committee of the trade union in question.

(5) Where at the coming into force of this section any person—

- (a) holds any full-time position as an employee of a trade union, being a position in respect of which (but for this subsection) the provisions of section 1 of the 1984 Act would be extended to him by virtue of subsection (1) above;
- (b) is entitled under the rules of the union to hold that position, without any renewal of his contract of employment, until he reaches retirement age;
- (c) will reach retirement age within two years; and
- (d) has been a full-time employee of the union for a period (which need not be continuous) of at least ten years,

then the amendment made by that subsection shall not have the effect of extending those provisions to that person in respect of that position except in so far as he continues to hold it after reaching retirement age.

(6) In this section—

“principal executive committee” has the same meaning as in Part I of the 1984 Act; and

“retirement age” has the same meaning as in section 8 of that Act;

and references in this section to a person being a member of a trade union’s principal executive committee shall be construed, including in relation to a time before the coming into force of this section, in accordance with section 1 of the 1984 Act, as amended by this section.

Marginal Citations

M1 1964 c. 24.

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