

GMB CONGRESS 2016

CEC STATEMENT ON THE TRADE UNION ACT



Introduction

On May 4th, 2016 the Trade Union Bill was given Royal Assent and became the Trade Union Act – that means it has become law.

The Bill was designed for no other reason than to make it more difficult for trade unions to organise industrially and politically – to remove power from working people and hand it to employers and those who believe they were born to rule. Within its scope, the Bill attempted to dictate how unions could collect their subs, meddling in contractual arrangements and fundamentally attacking our right to freedom of association. It has also systematically ignored the disproportionate impact on women because of the proportion of the public sector workforce who are female.

CEC condemns the Trade Union Act as an ideological, unnecessary and spiteful attack on working people by a Tory Government that knows little and cares even less for the lives of working people. It was apparent at every stage of the Bill that Conservative MPs and Ministers do not understand what trade unions do, how we work or what we contribute to the economy and society as a whole.

GMB has campaigned against the Act since it was first introduced to Parliament. We have worked with the TUC and TULO to take on every aspect of this Bill, and the CEC thanks both organisations for their efforts. We have worked across regions, lobbied Parliament, thousands of GMB members have contacted their MPs, MSPs and AMs.

CEC recognises that the work done by our Political and Legal teams, with our Labour front benches in the House of Commons and House of Lords, has been instrumental in diluting some of the worst aspects of the Act, but now the Act has been passed, we must adapt to the new industrial and political climate that it creates, while fighting ultimately not just to repeal it, but for workers' rights that are fit for the 21st century.

Changes to the Bill

CEC applauds the work done to force changes to the Trade Union Act as it passed through Parliament. The changes we helped to bring about include:

- **Stopping the ban on check off in public services:** the Government backed down on this ideological and spiteful policy, instead choosing only to make unions pay 'reasonable' costs for the service being provided.
- **Changes to the political fund opt in:** the Government had planned to give unions three months to change from a system of opting out of the political fund, to opting in. It had been planned that all opt-ins would need to be done in writing, to a union office and that every five years we would be required to ask members again if they wanted to stay opted in. CEC recognises the significant ground we made here, in making sure

that instead, the Act means: only new members will have to opt-in, not existing ones; we will have a 12 month transition period; there is no need to renew the opt-in every five years and members can opt in by methods other than 'in writing'. Unions will now also be required to abide by a new Code of Conduct from the Certification Officer.

- **Removing the cap on facility time:** the Government wanted to award itself powers to cap facility time as it felt like. The Government conceded that no action regarding any cap will be taken for three years. However, employers in the public sector (and some employers that provide public services) will be required to publish information on facility time levels and pay (to be specified further by regulations which must be debated in Parliament). The Act provides for a requirement of two years of data on facility time levels to have been collected, along with compliance with certain other procedural steps, before any cap may be imposed.
- **A review of electronic balloting:** while the Government have forced through new ballot thresholds for members taking industrial action, they were not planning to allow any modernisation of voting methods. Changes to the Bill as it passed mean that there will at least be a review and pilot process for electronic balloting in industrial disputes. This does not mean electronic balloting will definitely happen but if security concerns can be addressed in the pilots, it makes it more likely.
- **Rolling back on plans for pickets to wear arm bands and to report on all activity 14 days before a picket:** many of the Government's ideas on picketing were removed or diluted after outcry not just from our movement, but from civil liberties and human rights organisations. Among the proposals that were dropped were practices such as making all pickets wear an armband and give their personal details to police. The idea of giving employers very detailed campaign plans, even down to the level of what social media communications would be included, 14 days in advance of a picket – with fines for breaching the plan – were also dropped. There will, however, be an updated Code of Practice for Picketing that will include the use of social media in disputes.
- **Ancillary workers:** the Government decided not to include ancillary workers in the double strike thresholds they are imposing on much of the public sector.
- **Role and cost of the Certification officer:** the appointment of the Certification Officer will be free from ministerial direction and appointed by the Office of the Commissioner of Public Appointments (OCA), and that the levy on unions will only pay for part of the costs of the CO, excluding the more expensive costs of any external investigators.

There is also a different landscape in Wales, where we see the impact of politics in action: the Labour Welsh Assembly have refused to implement the Act because of its far reaching implications for areas which are reserved. The SNP Government in Scotland has not acted in the same way.

Secondary legislation

One of the most pernicious aspects of the Government's changes was not on the face of the Trade Union Act, it was to be proposed through secondary legislation.

The Government plan to introduce new measures which will allow agency workers to replace workers taking industrial action. This undermines our fundamental right to strike. As of writing this Statement, the legislation has not been introduced. GMB will continue to oppose its introduction.

What the Act means for GMB

The CEC is strident in saying that this is not good legislation.

The Trade Union Act is a direct attack on the ability of GMB to organise politically and industrially.

The Trade Union Act will require GMB to change how we work and what our internal processes are to meet the changed legislative environment.

GMB will practically need to address:

- Information that we put on the ballot paper – there are new rules on what we need to include on the ballot paper when we ballot for industrial action
- Political funds – we will be required to move to an opt-in, rather than opt-out of the political fund for new members. Any member who choose not to opt-in must receive 'relief' equal to the value of the political fund contribution – essentially, if GMB maintained the current system, then a new member who opted in to the fund would have to pay a different rate of subs to one who opted out.
- Industrial action ballot thresholds – to take lawful industrial action, we must have a minimum of 50% turnout. In some 'important' public services, at least 40% of those entitled to vote must also vote in favour of industrial action.
- Complying with and funding the new powers of the Certification Officer – the Certification Officer has sweeping new powers to investigate unions without a complaint being made by a member. The Certification Officer will also be funded by a levy on trade unions.
- Cost of check-off - the new costs associated with providing check-off and the recognition that we can never rely on GMB membership being enabled solely by an employer or government mechanism.

Conclusion

CEC recommends to Congress that:

GMB continues and steps up our efforts to convert check-off members to direct debit payments – we cannot be beholden to employers or the Government for the right of our members to pay their subs

GMB conducts a full audit of data to ensure we have the most up to date information possible, alongside modern communication methods of contact for our membership

GMB constructs different models of political funding to determine the best way to ensure that the union remains on a strong financial footing, while retaining our members' right to have a say in politics.

GMB continue to adhere to GMB@Work policy, adapting and updating our practices to ensure that under this new legislation, each workplace is organised as if a ballot for action was due.

GMB will not only work to repeal this Act, but to put forward a real vision for 21st century trade union rights. Because what we had before this Act, while better than what we have now, was not perfect.