

September 2015

UNISON activist briefing

The attack on the right to strike

UNISON is campaigning against the Trade Union Bill because we believe MPs should be focusing on the real problems our country faces and working with everyone, including trade unions, to solve them. We believe this is the priority rather than taking away people's right to be supported at work in England, Scotland and Wales.

This Bill heaps red tape and bureaucracy on to trade unions, proposing to use agency workers to break strikes and bringing in voting thresholds for industrial action ballots - all of which will undermine the fundamental right to strike.

Key concerns affecting the right to strike

- Workers will only be able to withdraw their labour through industrial action if 50% or more of eligible members vote in the industrial action ballot.
- For industrial action in 'important public services' 40% of all members eligible to vote would have to vote yes for a union to have a strike mandate. That means if 50% of members vote, 80% of those must vote yes.
- 'Important public services' affects UNISON members working in health and education (anyone in education delivering services to people under 17).
- If a group of workers spend part of their time delivering a service in an 'important' area, they would be covered by the 40% threshold.
- All 'ancillary' workers in health and education count as 'important public services' and are covered by this, but the government has yet to name exactly who those groups of workers will be.
- Action that meets every threshold could still be stopped on legal technicalities around whether all rules were followed. For example, new rules will require 'reasonably detailed' information on all balloting papers. Reasonably detailed is yet to be defined but lack of 'reasonably detailed'

information on ballot papers could be used by employers as a basis for legal action.

- Unions must give extended notice of industrial action – 14 days, up from the current seven days.
- Unions will have new time limits on ballot mandates. After four months, whether a dispute is resolved or not, unions will have to re-ballot. This will make disputes more protracted.
- Employers will be allowed to bring in agency workers when their employees are on strike.

The Trade Union Bill is anti-democratic

UNISON believes that the right to strike is a fundamental one, which should be respected in a free and democratic society. The UK already has one of the most regulated systems of industrial action in the world, with unions having to comply with highly complex legal requirements. Just the imposition of a 50% participation threshold in strike ballots will have a chilling effect on the ability of employees to take legitimate strike action. According to the International Labour Organisation (ILO) Freedom of Association Committee:

‘The requirement of a decision by over half of all the workers involved in order to declare a strike is excessive and could excessively hinder the possibility of carrying out a strike, particularly in large enterprises.’

The ILO has called on governments to amend their national laws where they included such provisions. Together with additional restrictions of a 40% ‘yes vote’ in important public services, an obligation on unions to give 14 days’ notice for industrial action and the removal of the ban on the supply of agency staff to cover strikes this is a serious erosion of the right to strike which goes against the government’s international and human rights obligations.

The government has refused to consider measures such as electronic balloting or workplace balloting supervised by independent scrutineers. This runs counter to the pursuit of electronic participation in every other area of its work. The government’s claim to be ensuring democratic mandates for action by introducing ballot thresholds is undercut by their refusal to make it easier for members to vote.

Allowing union members to use secure electronic voting for industrial action ballots would increase participation in union democracy, particularly among younger members. Instead, the Trade Union Bill will restrict the democratic rights of working people and the ability of trade unions to represent their members in the workplace. It will ultimately lead to a diminishment of your voice at work.

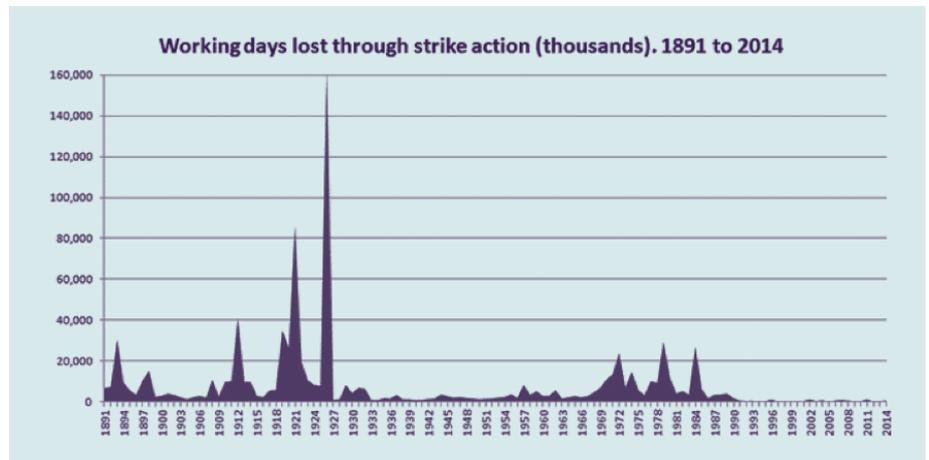
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The Trade Union Bill is unnecessary

UNISON does not believe that the government has set out sufficient reasons for its proposals on industrial action ballots. Strikes are at a record low as this TUC graphic illustrates.



The number of days lost to industrial action per year has fallen dramatically over the last 30 years. Since 2010, on average 647, 000 days have been lost to industrial action each year, compared to 7, 213, 000 days lost per year in the 1980s.

The government’s own red tape watchdog, the Regulatory Policy Committee labelled the Bill as ‘Not fit for purpose’ and criticised the short time frames the government used to try and argue for restricting the right to strike:

‘The RPC considers that a longer time series would have been useful context for the recent increase in strikes, and some discussion of the approach to these problems in other countries would have improved the quality of the presentation.’

“The Impact Assessment does not explain and present the rationale for the proposals in a straightforward and logical way. As such, the RPC does not believe that, in its current form, the Impact Assessment provides a clear enough basis for consultation.”

The Trade Union Bill will damage constructive relationships

When the right to strike action is undermined, so are the incentives for employers to listen to their workers, resolve disputes and engage in constructive relationships with trade union representatives. If enacted, the provisions in the Bill are likely to prove hugely divisive in many workplaces, with a considerable negative effect on workplace morale, stress, good will, staff turnover and productivity, at a time when public services will be under greater pressure than ever.

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- Unions will have to take more time in the run up to ballots to ensure the necessary turnout, prolonging the dispute.
- The thresholds will remove the incentive on employers to seek an early resolution of the dispute. Many will decide to wait and see if a union can meet the strike thresholds before making a revised offer.
- The extended 14 day notice of industrial action will needlessly delay its start.
- Time limits for strike mandates are likely to escalate disputes, with employers choosing to sit out disputes and refusing to negotiate in the knowledge that unions will incur new costs if they are required to re-ballot their members after four months.
- It is very likely to make it harder for ACAS to gain agreement from employers to engage in talks.
- Giving 14 days notice will also significantly raise the risk and likelihood of victimisation of trade union members, placing them under great pressure with implications for their well being, damage to industrial relations and further potential litigation.

The Trade Union Bill will damage the economy

Over the last 20 years, the earnings gap between the high and the low paid in the UK has grown to record levels. Pay freezes and below inflation pay rises, combined with rising household bills, mean that many UK households have struggled with an unprecedented fall in living standards.

The OECD and leading economists have warned that pay inequality in the UK is likely to hold back economic growth and will place the recovery at risk. The government's proposals will remove employees' ability to achieve better working conditions and living standards. The improvements in pay and conditions of service negotiated by unions like UNISON not only benefit trade union members, but also the wider workforce. The ability of unions to organise lawful industrial action is essential for effective bargaining. It ensures that employers take the views of the workforce seriously and engage in genuine negotiations.

The Trade Union Bill will increase red tape and bureaucracy

Some of the most damaging effects of the Trade Union Bill on the right to strike are excessive red tape and bureaucracy.

- The rules on who is covered by the additional 40% yes vote requirement are highly complex and trade unions will have to deal with huge amounts of bureaucracy in any sector where multiple employers and service users are involved, including gathering detailed information
- It will be harder for unions to gather sufficient accurate information from members who might, as part of their job, provide ancillary services to public services and therefore be caught by the 40% threshold. Unions would need to know from these members how much of their working time is allocated to different contracts. Many union members may not be able to answer such questions accurately. As a result unions will find it very difficult to comply with the legislation.
- Unions will be required to re-ballot members if industrial action lasts for more than four months. This will include the costs of preparing additional complex ballot and industrial action notices for employers, scrutineers' fees, postage costs, legal fees, and officer time overseeing the ballot.
- Every year, unions will be required to gather and submit significant additional information to submit to the Certification Officer relating to industrial action undertaken and political fund expenditure. This will create significant additional administration costs for unions.
- Unions may be required to prepare detailed notices setting out plans for any pickets or protests associated with industrial disputes two weeks in advance.

The red tape and bureaucracy imposed on unions by industrial action thresholds will see scarce union resources diverted from the kinds of positive trade union activity that benefits both workers and employers to an increased focus on workplaces facing disputes before and during the balloting process.

For further information, contact

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