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**Trade Union Bill**  
**Department for Business, Innovation and Skills**  
**RPC rating: fit for purpose**

### **Description of proposal**

The impact assessment (IA) addresses five proposals:

- (a) Introduce a 50 per cent turnout threshold for a ballot to provide a legal mandate for industrial action and, in six specific sectors (mainly key public services), an additional threshold of 40 per cent of those entitled to vote to be in favour. The latter will be implemented through secondary legislation, the impacts of which will be assessed in a separate IA.
- (b) Introduce a four-month time limit to the validity of a ballot mandate, move to 14-day notice of industrial action, require unions to provide more information on ballots, remove the requirement to take action within four to eight weeks, report details of industrial action.
- (c) Turn section F of the code of practice on picketing into a statutory obligation. This is aimed at tackling intimidation of non-striking workers.
- (d) Require trade union or employer association members to opt into political funds by written notice; and require additional reporting of political fund expenditure to the Certification Officer.
- (e) Widen the Certification Officer's powers of investigation and introduce a financial sanctions regime. This will include the power to introduce a levy on trade unions and employer associations to recover the full costs of running the Certification Office. Any such levy will be implemented through secondary legislation supported by a separate IA.

### **Impacts of proposal**

The Department expects business and society to benefit from the proposals as a result of fewer days being lost to strike action. The main monetised benefits of the policy package come from proposal (a). The Department estimates the benefits to business and public sector employers at £11.8 million each year. The overall present

value of the benefit is £102.1 million over ten years. (Including a £0.5 million benefit to the Exchequer from an increase in annual fines in proposal (e).)

The cost of the proposals will fall primarily on trade unions. All 163 trade unions will be affected by proposals (a), (b), (c) and (e). The 25 trade unions that have political funds will be affected by proposal (d).

The Department estimates that:

- proposals (a) to (e) will involve one-off familiarisation costs to trade unions of £2.3 million;
- proposal (d) will involve an equivalent annual cost to trade unions of £0.9 million, mainly resulting from administrative and postage costs of inviting members to opt in to political funds every five years; and
- widening the activities of the Certification Officer under proposal (e) will cost an additional £1.1 million each year, initially falling on the Exchequer.

The Department estimates that, overall, the proposals will cost around £19.6 million over ten years in present value terms.

The assessment of the costs and benefits to business and civil society organisations involves two main adjustments to the above figures. First, it excludes the costs to the Exchequer of widening the activities of the Certification Officer and the benefit from the increase in fine revenue under proposal (e). Secondly, it excludes the benefits from proposal (a) that will affect only public sector employers. This results in a business NPV of £12.61 million, giving an equivalent annual net cost to business (EANCB) of -£1.41 million in 2014 prices.

## Quality of submission

### Background

The RPC issued a fit for purpose opinion on a final stage IA on 1 December 2015. Subsequently, the Department submitted for RPC scrutiny an amended IA having removed an assessment of the proposal relating to the reform of trade union facility time in the public sector. This proposal will be covered in a separate IA. The Department distinguishes this proposal from the others in the overall package because it directly affects only the public sector. This change affects the net present value but, as it does not directly affect businesses or civil society organisations, it does not affect the EANCB figure.

## Assessment

The Department has addressed the comments made in the RPC's red-rated opinion dated 3 September 2015 relating to the robustness of the estimated direct costs and benefits to business:

### Proposal (a) – thresholds

Based on historical data, the original IA assumed a 65 per cent reduction in the number of working days lost to strike action. The RPC asked the Department to provide further evidence to support this assumption or to estimate to what extent this figure is likely to fall due to a change in voting behaviour.

The IA now explicitly provides three scenarios of how voting turnout may increase due to this proposal. The middle of these scenarios is used to adjust the reduction in working days lost from 58 to 37 per cent in the six sectors, and from 45 to 26 per cent in the rest of the economy. The Department estimates the overall benefit from the 50 per cent threshold at £11.8 million each year in present value terms.

The IA also now includes a short section on the possibility of an increase in industrial action other than strikes (paragraphs 110-113, page 38).

### Proposal (d) – requirement for members to opt in to a political fund

The RPC's previous opinion raised concerns about the potential impact of the proposal on the monies that trade unions will receive for their political funds. The IA now includes a clearer description of the opt in/out processes relating to member contributions to trade union political funds. The RPC accepts that trade unions are effectively acting as an agent in this regard and that any reduction in political contributions would not, therefore, represent a direct impact on them.

### Small and micro-business assessment (SaMBA)

The Department's SaMBA is now sufficient. The Department has provided a much expanded assessment (pages 86-91). This explains, against each individual policy, why it is not possible to exempt small trade unions. Trade unions with fewer than 10,000 members make up three-quarters of all trade unions. The IA explains that industrial action by smaller unions will also have an impact on business and individuals not involved in the dispute (page 88). The Department also points to mitigation measures, such as the Certification Officer producing model clauses that can be used in trade union rule books or the power of the Certification Officer to take account of the number of members or amount of income in setting the levy.

## Other issues

The Department has also addressed the other issues raised in the RPC's red-rated opinion. These were:

### Proposal (b) – four-month time limit to the validity of a ballot mandate

The IA now provides a discussion to support the selection of four months as an appropriate time limit (page 47).

### Proposal (e) – widening the role of the Certification Officer

The RPC commented that trade unions that are investigated but subsequently found to be compliant would incur a regulatory cost. The Department has reviewed cases between 2010 and 2015 but was not able to find an instance where this had occurred (page 80). Given that the number of investigations may increase as a result of the proposal, the IA would benefit from discussing further whether there could be some costs to compliant trade unions in the future.

Finally, the IA monetises the familiarisation cost to trade unions of proposal (c), which is aimed at tackling intimidation of striking workers. The IA would benefit from further discussion of possible familiarisation costs to businesses.

## Departmental assessment

Classification	In scope of the deregulatory target (OUT)
Equivalent annual net cost to business (EANCB)	-£2.07 million (initial estimate) -£1.41 million (final estimate)
Business net present value	£12.61 million
Societal net present value	£82.43 million

## RPC assessment

Classification	Qualifying regulatory provision
EANCB – RPC validated	-£1.41 million
Small and micro-business assessment	Sufficient

Date of issue: 13 January 2016  
[www.gov.uk/rpc](http://www.gov.uk/rpc)

To avoid any perceived conflict of interest, committee member Sarah Veale did not participate in the scrutiny of this case.

Opinion: final stage IA  
Origin: domestic  
RPC reference number: RPC-3002(3)-BIS  
Date of implementation: 1 October 2016

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**Michael Gibbons CBE**, Chairman

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