

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT IMPORTANT PUBLIC SERVICES
(EDUCATION) REGULATIONS 2017

DRAFT IMPORTANT PUBLIC SERVICES
(TRANSPORT) REGULATIONS 2017

Tuesday 31 January 2017

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The Committee consisted of the following Members:

Chair: MR NIGEL EVANS

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| † Barclay, Stephen (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Lammy, Mr David (<i>Tottenham</i>) (Lab) |
| † Davies, Dr James (<i>Vale of Clwyd</i>) (Con) | † McGovern, Alison (<i>Wirral South</i>) (Lab) |
| † Debonnaire, Thangam (<i>Bristol West</i>) (Lab) | † Mathias, Dr Tania (<i>Twickenham</i>) (Con) |
| † Drummond, Mrs Flick (<i>Portsmouth South</i>) (Con) | † Mills, Nigel (<i>Amber Valley</i>) (Con) |
| † Furniss, Gill (<i>Sheffield, Brightside and Hillsborough</i>) (Lab) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| Godsiff, Mr Roger (<i>Birmingham, Hall Green</i>) (Lab) | † Stephens, Chris (<i>Glasgow South West</i>) (SNP) |
| † Gray, Neil (<i>Airdrie and Shotts</i>) (SNP) | † Sunak, Rishi (<i>Richmond (Yorks)</i>) (Con) |
| † James, Margot (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) | Winnick, Mr David (<i>Walsall North</i>) (Lab) |
| † Johnson, Gareth (<i>Dartford</i>) (Con) | † Zahawi, Nadhim (<i>Stratford-on-Avon</i>) (Con) |
| | Jonathan Whiffing, Sean Kinsey, <i>Committee Clerks</i> |
| | † attended the Committee |

Fourth Delegated Legislation Committee

Tuesday 31 January 2017

[MR NIGEL EVANS *in the Chair*]

Draft Important Public Services (Education) Regulations 2017

2.30 pm

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Margot James): I beg to move,

That the Committee has considered the draft Important Public Services (Education) Regulations 2017.

The Chair: With this it will be convenient to discuss the draft Important Public Services (Transport) Regulations 2017.

Margot James: It is a great pleasure to serve under your chairmanship, Mr Evans.

The Trade Union Act 2016 modernises the UK's industrial relations framework to better support an effective and collaborative approach to resolving industrial disputes. The Act restores a level of fairness to our industrial relations regime and gives effect to the Government's manifesto commitments. It ensures that strikes can happen only as a result of a clear positive decision by those entitled to vote, balancing the interests of unions with the interests of the majority of people who rely on important public services.

Neil Gray (Airdrie and Shotts) (SNP): The important public services that we are discussing today—education and transport—are devolved competences. What consultation has there been with the Scottish Government?

Margot James: I will come back to that point, if the hon. Gentleman permits.

The Act received Royal Assent in May 2016. Today we are debating two statutory instruments that implement a 40% threshold for ballot mandate approval for important public services in the education and transport sectors. As well as the requirement that 50% of union members who are eligible to vote do so, 40% of all eligible members will have to agree with the proposed mandate. We propose that the 40% threshold for the two sectors comes into force on 1 March.

Chris Stephens (Glasgow South West) (SNP): The Minister will know that during the passage of the Trade Union Bill, there was some debate on other aspects of balloting, such as electronic balloting. What is the Government's direction of travel on e-balloting and secure workplace balloting?

Margot James: I can certainly deal with the issue of e-balloting. The Government committed to undertake a review of the potential for e-balloting in advance of

strike action. A review has been established under the chairmanship of Sir Ken Knight and it will report by the end of the year.

We propose that the 40% threshold comes into force on 1 March. At the same time we will bring into force a number of other provisions in the 2016 Act, including a 50% turnout threshold for those who are eligible to vote, as I mentioned; additional information to be provided about the result of any ballot; two weeks' notice of industrial action to be given to employers; new requirements to manage picketing and new reporting requirements. That ensures that the key changes to the way official industrial action is decided on and implemented are prioritised and come into effect as a package.

The purpose of the ballot thresholds is to rebalance the ability of union members to strike with the interests of the general public, non-striking workers and employers. The 2016 Act takes proportionate action to redress the balance and ensure that unions in the education and transport sectors have a strong democratic mandate before they take strike action. The impact of strike action is most severe when it takes place in the important public services that people and businesses rely on every day, particularly when people are left with no real alternatives. That is particularly unfair when strike action goes ahead with no evidence of strong support from a unionised workforce. That is why we have introduced a 40% approval threshold to apply to important public services such as education and transport, in addition to the requirement for a 50% turnout overall.

Alison McGovern (Wirral South) (Lab): For the sake of full disclosure, will the Minister say what her own approval threshold was and what percentage of her own electors voted for her?

Margot James: As I do not dwell on my own electoral circumstances, I cannot give an absolutely accurate answer to the hon. Lady's question. However, I do not regard that as a parallel. That sort of question was raised when we debated the Bill last year. Everybody gets a say in the election of an individual MP to represent a constituency. It is not just a vote for one or another candidate; a range of candidates are on offer. Everyone who is going to be affected by the eventual outcome of such an election gets a say. In the cases we are describing, the non-striking workforce and—more important for this argument—the public, who require and depend upon these services, as they do in the hon. Lady's own constituency, get no say whatsoever.

This is an attempt not to deny strike action or the validity of it, but to rebalance the interests involved. That is why we have introduced a 40% approval threshold to apply to these important public services, in addition to the requirement for a 50% turnout. It is in the interests of the public to know that where they face disruption in these crucial services as a result of strike action, it is because union members have secured a democratic mandate. That is also important for union members who did not support the strike action.

The Government believe that the measures being put in place strike the right balance. During the passage of the Trade Union Bill last year, the Government consulted on which services within the public service categories set out in the Bill should be subject to the 40% threshold

and on how the threshold should operate in practice. We analysed more than 200 responses, reviewed the available evidence for the impact of strike action across different public services and listened to stakeholder views.

At this point, I will answer the question from the hon. Member for Airdrie and Shotts on what consultation took place with the Scottish Government. The Government held a public consultation on these measures during the passage of the Bill, published skeleton regulations as part of the Government response and invited comments from all stakeholders and members of the public, including in Scotland.

Neil Gray: A public consultation is very different from one-to-one correspondence with a Minister. Will the Minister elaborate on whether any direct contact was made with the Scottish Government on these matters?

Margot James: I imagine it was, but as I was not the Minister responsible at the time I cannot confirm that categorically.

As I said, the Government believe that the measures being put place strike the right balance. During the passage of the Trade Union Bill last year, the Government consulted on which services within the public service categories set out in the Bill should be subject to the additional 40% threshold and on how the threshold should operate in practice. The Government response to the consultation was published in January last year, when we also published draft regulations. The substance of those was discussed in Parliament during the passage of the Trade Union Bill. The regulations we are introducing today limit the application of the threshold to those services where there is the most compelling evidence of the impact of strike action and ensure that its scope is proportionate.

What does that mean for the education and transport sectors affected? The Government aim to ensure that all children have the right to an education, so we have focused on teachers who work with pupils of a compulsory school age in state-funded institutions. That reflects the importance of those years for children's education and the disproportionate impact on learning that strike action can have. In the transport sector, our priority is to ensure that large numbers of people can rely on the services they need every day to make important journeys as far as possible. We have therefore focused on passenger services, because strike action is more likely to have an adverse and immediate impact on people's ability to go to work, school, college and important appointments. That is why the regulations cover passenger railway services, including the maintenance of trains and the network, and the signalling and control of the operation of the train network. The regulations will also cover any London local bus services, civil air traffic control services and airport and port security services.

Nigel Mills (Amber Valley) (Con): Will the Minister explain how the Government came to think that only London bus services counted as important public services? I assume that my constituents who travel on buses into Nottingham or Derby to work would find a strike on those routes inconvenient, too. Is there some reason why the regulations are restricted to London buses?

Margot James: My hon. Friend makes a very good point. I will reflect on that and get back to him.

Members of the public will agree that strikes in such important public services should only take place when there is a strong level of support for a justifiable mandate. I hope I have reassured Members that the regulations are justified and proportionate to our objective.

I am aware that concerns have been expressed in Parliament and elsewhere that the 40% threshold is not consistent with our international obligations. I will set out why we are satisfied that it is compliant. We recognise that the threshold introduces additional conditions that must be met before strike action can be taken. It therefore engages our obligations under article 11 of the European convention on human rights and the International Labour Organisation's conventions. We analysed the provisions of the 2016 Act carefully against those requirements. It is clear that restrictions on article 11 of the ECHR are permitted when they are justified by a legitimate aim and are proportionate. The pressing social needs we want to address in the regulations are the safeguarding of children's education and the ability of large numbers of people to go to work and carry on their daily lives. Strike action in the important education and transport sectors can have a significant impact on those social needs.

Alison McGovern: It was my great joy as a child to experience my dad, a railway worker, out on strike on many occasions. Too often, he was protecting health and safety for other railway workers—a cause that is extremely important to all of us who have family members working to keep our trains running. Will the Minister explain how she has weighed important social factors such as the safety of people working in the industry against the causes she mentions?

Margot James: The hon. Lady makes a very good point. The legislation does not purport to condemn all strike action as anathema. It is merely about a requirement to better balance the interests of the travelling public with the rights of people, including her father, to take strike action. There is no concerted effort by the Government to undermine a person's or a union's right to take strike action; we are merely requiring that right to be tempered by a strong democratic mandate.

Our aim is to rebalance the ability of union members to strike with the interests of the general public, non-striking workers and employers. In introducing thresholds, we have taken proportionate action that does not ban strikes, but simply redresses the balance by ensuring that unions have a democratic mandate before they take strike action. International bodies have persistently been asked to consider whether UK legislation is compliant, but the UK courts, the European Court of Human Rights and the governing body of the ILO have accepted that UK legislation strikes the right balance between the rights of union members and the legitimate interests of others affected by their actions. That is precisely what the Trade Union Act and the regulations continue to do.

We have taken account of the guidelines on essential services that some of the ILO's supervisory committees have referred to in respect of services where it may be legitimate to limit or prohibit strike action, but our

[Margot James]

objective is not the same and that is why we have deliberately used a different term. As I have explained, we want to protect the public from the immediate and adverse consequences of strike action taken with the support of a minority of union members. We are not stopping strikes that have a reasonable democratic level of support, such as those the hon. Lady just mentioned.

Chris Stephens: Why are the Government seeking to rush ahead with these statutory instruments today, rather than wait until the outcome of the e-balloting review? I say that specifically because of the Government's assurances to the House of Lords and hon. Members of this place during the passage of the Bill.

Margot James: The report of the e-balloting review is not far off and the matter is separate from the requirement to secure a proper democratic mandate for strikes in these important public services.

In relation to the regulations, the Secondary Legislation Scrutiny Committee pointed out that the Government had committed to issue guidance to clarify which workers will be captured by each of the important public services listed, in order to assist unions and employers when they are assessing how a ballot should be conducted. The Committee's view was that the need for such guidance raises the question whether the regulations are sufficiently clear and understandable for those affected. Furthermore, the Committee expressed regret that the Government had failed to publish that guidance in early December when laying the draft regulations in Parliament.

I am grateful for the Committee's scrutiny. I can confirm that the Government have now published guidance to provide advice for unions on applying the 40% threshold in practice, with examples of workers who will be covered by each of the regulations. In drafting the guidance, we engaged with key stakeholders affected by the provisions to understand how the guidance can be most helpful. We listened carefully to their views and have reflected those in the guidance.

In conclusion, the Government believe that the regulations are proportionate and strike the correct balance between the interests of unions and those of members of the public.

2.46 pm

Gill Furniss (Sheffield, Brightside and Hillsborough) (Lab): It is a great pleasure to serve under your chairmanship, Mr Evans.

As the Minister has outlined, the Trade Union Act 2016 introduced a requirement that at least 50% of eligible union members must vote in an industrial action ballot for it to be lawful. In addition, union members in sectors that the Government define as providing important public services will be subject to the requirement that any ballot for industrial action must achieve a 40% threshold of support. Today we consider the transport and education sectors.

The Government have continually sought to argue that their proposals in the Trade Union Act will increase democracy and widen participation, but their neglect of electronic voting and insistence on outmoded processes reveal that as a smokescreen for an ideological attack

on working people and trade unions. It is alarming that such an important and controversial component of the Trade Union Act is being determined by secondary legislation, resulting in a more limited opportunity for Parliament to scrutinise and debate provisions that are likely to undermine the right to strike for millions of UK citizens.

Trade unions are a force for good and for equality in our society, particularly in an increasingly insecure world of work. Labour remains fundamentally opposed to additional restrictions on industrial action that will limit the rights of millions of ordinary working people to strike.

Gareth Johnson (Dartford) (Con): Does the hon. Lady agree that if a trade union cannot get 50% of its members out to vote in a ballot, with 40% in support, it cannot really have a very good cause and therefore that the public should not be inconvenienced and workers should not be deprived of the right to work?

Gill Furniss: It is up to the management negotiating with trade unions to prevent strikes from happening. This legislation will be more acrimonious and will let the hon. Gentleman's Government off the hook when it comes to strikes.

Chris Stephens: Given that only postal votes can be used, is it not difficult for trade unions running industrial action ballots by post that the number of post boxes in the UK has reduced sharply in the past five years?

Gill Furniss: The hon. Gentleman makes a very good point. We see with the closure of many post offices how the Government's policy affects all walks of life.

The Government have also strived to give the appearance of a democratic process in the formulation of the Act and the associated regulations. The consultation on ballot thresholds in important public services received 205 responses from a variety of sources. As I will outline, those responses by no means gave a green light to the Government's ideas, either on the definition of important public services, or on the restrictions on the ability to carry out proposed strike action.

These regulations must be seen within the wider context. They are part of a slew of regulations that limit trade unions. I thank the Government for listening to reason on the transition period before the rule change for political funds and await their new proposal. I welcome their changes to the initial proposals on the inclusion of ancillary workers in these categories, but make no mistake, the Act is an unnecessary, unjustified and disproportionate restriction on the right to strike for millions of working people.

Strike action in the UK is already at an all-time low. Figures from the Office for National Statistics show that 2015 had the second lowest annual total of days lost due to strike action since records began in 1891. What is more, the mechanisms already in place in the UK to deter or avoid strike action mean that most disputes are settled without strikes. There are more than four times as many strike ballots than there are actual stoppages. As Cathy Warwick, chief executive of the Royal College of Midwives, wrote shortly after the college's first ever strike since its foundation in 1881,

“women needing urgent and emergency maternity care were getting it because midwives had sat down with management in advance of the day to ensure that a safe service would still be running, staffed by midwives, regardless of the strike.”

Unions are always careful in taking industrial action to offer essential cover and never to put at risk life and limb.

Asking members to take industrial action is always a matter of last resort. The priority for unions is to improve mechanisms for dispute resolution and is evidenced by the TUC initiative in the Southern rail dispute. The Government are pushing an image of trade unions as selfish organisations that threaten public safety, but that could not be further from the truth. Not only are new laws and regulations on strike action unnecessary, but they threaten to aggravate and unsettle the industrial relations we have in this country. The new laws set an unrealistic benchmark for industrial action, undermining the right to strike for many public sector workers. For example, in the sectors covered by the draft regulations, in a ballot where 50% of members take part, unions will need an 80% vote in favour before any strike action can go ahead. This is an unacceptably high threshold.

It is in the interests of workers, employees and the public for disputes to be resolved quickly and amicably. However, the new restrictions will undermine constructive employment relations in the UK, by forcing unions to put more effort into driving up ballot turnout and less into amicable settlements. The British Institute of Human Rights, Liberty and Amnesty International UK said of the then Trade Union Bill, now the Act:

“The government’s plans to significantly restrict trade union rights—set out in the Trade Union Bill—represent a major attack on civil liberties in the UK.”

The right to strike is protected by a number of international and European provisions, including the International Labour Organisation convention 87, the European social charter and the European convention on human rights.

The ILO defines essential services as those the disruption of which would endanger lives. In their response to the Department Business, Energy and Industrial Strategy consultation, Tonia Novitz, Alan Boggs and Ruth Dukes, professors of labour law at the universities of Bristol, Oxford and Glasgow respectively, said:

“Many of the government’s proposed ‘important’ services do not fall under this definition (for instance, education and transport).

We are concerned that the drafters of the Bill have introduced a term, ‘important public services’, which has no precedent under international or British law. This does not accord with the UK’s treaty obligations under the ILO Constitution or Conventions and is inconsistent with the established ILO jurisprudence regarding treatment of ‘essential services’.”

The Government have sought to defend the 40% threshold by citing decisions of the European Court of Human Rights that relate to cases from France and Spain, but those cases deal with the restrictions on the rights of police officers and military personnel. They do not justify restrictions on strike action by public sector transport workers or teachers.

On education, I note that the National Union of Teachers said in its consultation response:

“The ILO Labour Relations (Public Service) Convention 151 also provides that public servants must enjoy the same political and civil rights as other employees. The NUT would argue that any interference with this right must be fully justified and that the Government has failed, as yet, to provide any such justification.”

I have heard nothing from the Minister to convince me that the Government have provided any such justification for why teachers, as public servants, should have their political and civil rights in the form of their ability to organise strike action hampered in this way compared with other workers.

The Government seem to ignore the fact that strike action by teachers often carries significant sympathies from parents, who recognise that adequate conditions for teachers and a good teaching environment are in the interests of their children. It should not escape anyone’s notice that fee-paying schools are exempt from the regulations, as they are not public services. The regulations will ensure that public sector school workers have less capacity to strike than those working in schools that charge fees. The right to strike is a fundamental human right that should be applied equally to all workers.

In the consultation responses on education, 47% of respondents disagreed with the proposed list of bodies and workers. Although that contained a mixture of views, only 17% were in agreement. Some respondents felt that strike action in education services poses no significant risk to the public. Evidently, the Government disagree, but unless they can put forward a coherent case, we should go no further with the regulations.

As for transport services, out of 119 responses, 23% agreed and 38% disagreed with the proposed list, with respondents feeling that strike action in transport services was unlikely to pose risks to the public. The Prime Minister talks of the Tories as the party of the working class, yet in a country where trade unions are already heavily regulated, she wants further restrictions to rob workers of their right to take industrial action, leaving workers badly treated and essentially powerless. For all the reasons given, I cannot support the regulations and will press them to a Division.

2.57 pm

Chris Stephens: It is a pleasure to serve under your chairmanship, Mr Evans. I refer Members to my entry in the Register of Members’ Financial Interests: I am chair of the Public and Commercial Services Union parliamentary group and a proud member of the Glasgow City branch of Unison.

I have led for the Scottish National party on all stages of the Trade Union Act. I see some familiar faces on the Government Benches who have been with me through that long process. They will know that there remains strong opposition from my party to the passage of the Act and these statutory instruments.

It is somewhat ironic that, at this moment, Members in the main Chamber are discussing the outcome of a referendum that would not have met the 40% threshold that the Government wish to impose on the trade union movement. The outcome was based on 37.4%. Under the rules that the Government wish to place on the trade unions, the UK would not be leaving the European Union if the 40% threshold the Government wish to impose on the trade union movement were applied.

Members in the main Chamber will, I am sure, discuss workers’ rights and the rights of the trade union movement as part of the process of leaving the European Union. Those who are suspicious about the Government’s commitment to maintain workers’ rights need only come here, to this Committee, to find out what really is going on and what the Government’s true motivations are.

[Chris Stephens]

My real concern is this. Throughout the passage of the Trade Union Act and during the ping-pong exercise, the former Minister for Skills, the hon. Member for Grantham and Stamford (Nick Boles)—as I said last week, I hope that he is recovering well—gave the House an assurance that he was taking seriously the implementation of e-voting and e-balloting for trade unions. If that review is to take place by the end of this year, it surely makes sense for these statutory instruments to be placed before the House then, once we know the outcome of that exercise, because the Act will only allow postal balloting for industrial action.

The Minister suggested that it is a modernising Act, but it is not—far from it. These Orwellian phrases we have heard so often during the passage of the Act need to stop, because members of the public and trade union members across the UK see right through it.

The response regarding what discussions have taken place with the devolved Administrations is rather unconvincing. The Minister was asked quite clearly what ministerial-to-ministerial meetings have taken place since the passage of the Act and before these statutory instruments were placed before us. It would appear that there have not been any from the Government. We need an answer to that question, because the Scottish Government and the Scottish Parliament are rightly opposed to the Act and are opposed to any attempt to gerrymander ballots with a 40% rule.

We in Scotland have bitter experience about 40% rules being passed into Scotland, when the Scottish Parliament was delayed by 20 years thanks to the imposition of a 40% rule in the Scottish referendum in 1979. I am fast coming to the conclusion that, just like last week, the Government are doing things in their own order, and I suspect that the Government will have to go away and think again about the application of these regulations.

The trade union movement already meets onerous legal conditions for industrial action. Indeed, the only reason the Act was passed in the first place is that the former Mayor of London, now the Foreign Secretary, had a unique approach to industrial relations in this country. Indeed, the industrial actions that are often referred to in support of the Act met every threshold the Government wish to place upon them.

Additionally, no equality impact assessment has been carried out for the regulations. I will tell the Committee who they will harm: the majority of trade union members who are often low-paid women who have had to undertake industrial action to secure equal pay, for example, and better terms and conditions.

As the shadow Minister has outlined, real concerns have been expressed by the ILO committee of experts, which is very concerned that primary and secondary education have been added to the Act, and we now see that further education has been added as well. I look forward to the Minister's response, but my hon. Friend the Member for Airdrie and Shotts and I will oppose the regulations today.

3.3 pm

Alison McGovern: It is a pleasure to serve under your chairship, Mr Evans. I intervened before to ask the Minister, for the purposes of the Committee's information,

if she could tell us what the genuine level of support for her candidature in her constituency at the last general election was. I am sure she will be thrilled to know it was a big 30%. The hon. Member for Dartford, who intervened before, did slightly better, reaching the dizzy heights of 34%. I imagine the Committee has now had its appetite whetted, to know what my own level of support in Wirral South was.

The people of Wirral South are extraordinarily fair-minded, passionate about social justice and get up every morning thinking, "I really hope my MP is speaking out on behalf of the myriad issues we care about," but only 35% of them committed their vote to support me. None of us on the Committee can claim the true, justified mandate that the Minister seems to think is legitimate to require of public service unions. That is a ridiculous position for us to get into. It is a strange situation for us as democrats, as we no doubt all are in this House, to find ourselves casting forth our judgment on the levels of support that organisations must command for their positions, when we have found ourselves incapable and not up to the task of meeting this test ourselves. We have found it too hard.

There is a lot of discussion about hypocrisy in politics at the moment. I would never dream of accusing anybody here of being guilty of such a thing. At least, we must worry about the appearance of hypocrisy when we are unable to command the levels of support that we would ask of railway workers, tube workers, nurses, teachers and other public servants. They will understand the change that the Government are bringing in and fail to see how we could vote for it.

As my hon. Friend the Member for Sheffield, Brightside and Hillsborough said, the idea, which has absolutely no precedent in our democracy, is that such a threshold should be applied with a justification of protecting important public services. The Government seem to have plucked that definition out of thin air. The regulations would apply such a test in a way that has never been done before. I never thought that I would have to lecture the Tory party in government about the importance of tradition and precedents in our constitution, yet here we are: strange things are indeed happening in this Committee today, are they not?

There is no democratic precedent for this manoeuvre; the Government are completely making it up as they go along. The Minister did give a justification: she said we need to rebalance the interests. I look at the economy in our country today and think that if a rebalancing of interests is needed, it is a rebalancing towards working people, not away from them. The reality is that wages have not grown over the past decade. Since just before the economic crash, people have been doing steadily worse and their wages have continued not to grow.

It is a simple truth in our economy that there are only two things that successfully raise wages: one of them is the law and the National Minimum Wage Act 1998 introduced by my party, and the other is a trade union membership card in the back pocket. Those are the things that raise wages in this country—that is what all the evidence says.

Chris Stephens: Is that not the real game here? The Government have been caught out. They think the best way to stop teachers deciding to take national industrial action on pay is by imposing the 40% rule.

Alison McGovern: That is a very good point. The hon. Gentleman reminds me that, as he did, I should draw attention to my entry in the Register of Members' Financial Interests. I have been proud to be supported by trade unions. Like all good Labour MPs, I work week in, week out, with our friends in the trade union movement. That is how I know that if what the Minister wanted to do was modernise the trade unions, she would be correct. It is very important that we see these institutions not as relics of the past, but as an important force for good in the future, which is why she should push ahead with the use of new technologies for the trade union movement. She should know that only too well, given that her party used online balloting to find its candidate for the London mayoral election—although that may be why she is not so keen on it; that story did not end well.

Online balloting is used for many democratic functions by, for example, building societies or important national organisations. I vote in online ballots at least three or four times a year for the different representative functions in the co-operative organisations that I am a member of. It is a common thing that could easily be done and it would save trade unions a heck of a lot of money that could be spent fighting for equality, safety and decent pay and terms and conditions in the workplace.

I finish with two points. First, I point out to the Minister that the year with the highest number of strike days our country has faced since 1996—as I am sure everybody in the Committee knows—was 2011. Why? Because we saw an attack on public services at the commencement of the austerity policies of the right hon. Member for Tatton (Mr Osborne). We saw an attack on people's pension rights and on funding for the public sector, and people did not feel that that could stand. The strikes were a reaction to that, marking the height of anguish about what was happening in our country. The cause of a strike is people not getting around the table to discuss things properly and find a moderate way forward. The cause of a strike is parties not talking to each other and not working together.

Secondly, and following on from that, if we pass these measures and still see in an increase in strike days because of the Government's approach to public services, what will the Minister do then? Will we see even more attempts to reduce the influence of trade unions in our society and to restrict their abilities, or will she accept—as I believe she has to—that working people in this country need effective, well informed trade unions that have the ability to work in the modern era and give working people a genuine shot at a good future

3.12 pm

Margot James: I do not intend to respond to all of the points raised—they were given an adequate hearing during the passage of the 2016 Act—but I will respond to the particularly germane points.

First of all, I must respond to some of the points made by the hon. Member for Wirral South. She talked about the strikes in 2011 as if they were somehow justified as an attack on the former Chancellor's rescue of the British economy. The coalition Government came in with a mandate from the 2010 general election to restore the public finances from the shambles the Opposition left them in.

Chris Stephens: Will the Minister give way?

Alison McGovern: Will the hon. Lady give way?

Margot James: I will not give way, because I am merely responding to the hon. Lady's—

Chris Stephens: On a point of order, Mr Evans. For the record, I was on strike in 2011 to protect my occupational pension, which was being attacked by the Government.

The Chair: That was a point of information, not a point of order.

Margot James: I contend that the Government's position on the legislation is not ideological at all. I agree with Opposition Members that trade unions are a force for good. Contrary to some of the remarks we have heard, we are seeking a rebalance in the interests of the public, most of whom are workers as well. In the egregious current example of the Southern rail strike, many of the passengers attempting to get to work or to important appointments are paid considerably less than the union members who are on strike. I ask Opposition Members to consider that. That is an important part of why we are trying to rebalance the interests of unions with those of the rest of the population, who require and indeed depend on public services. Nothing in the Act undermines the right to strike. It merely ensures that, when strikes occur in vital public services—I accept that they are usually the last resort—they have a strong democratic mandate. That is all that is being proposed.

The hon. Member for Sheffield, Brightside and Hillsborough talked about public opinion during the consultation. The consultation process was in depth. The response to a ComRes poll of 1,000 people held in 2015 found that 62% supported the ballot thresholds. This support was consistent across England, Scotland and Wales. The measure was, of course, a manifesto commitment made by the Government before they came into office.

The hon. Lady also talked about our international obligations and claimed that ECHR cases indicated that the thresholds we are proposing should only apply to police officers and workers in other sectors that involve life and death. That is not the case. The National Union of Rail, Maritime and Transport Workers case, which was heard by the European Court of Human Rights, specifically made it clear that Governments have a wide margin in deciding what proportionate measures are. We have taken great care to show that our proposals are consistent with our international obligations.

My hon. Friend the Member for Amber Valley made the very good point about bus services outside London. Buses in London are tightly regulated by Transport for London and the impact on the public of strikes in bus services in the past is well documented. More than 6.5 million journeys would be disrupted by 24-hour strike action across the London-wide bus network. In contrast, there is limited evidence of the impact of strike action in local bus services outside London on the sorts of users who rely on those services. If my hon. Friend has evidence to the contrary, I invite him to bring it to my attention and we will look at it.

[Margot James]

Positive industrial relations are the backbone of a productive economy and the Government believe that trade unions can play a constructive role in maintaining such relations. We are equally clear that the reforms are required to ensure that strikes happen only as a result of a clear, positive decision by at least 50% of those union members entitled to vote. That is why we brought in the Trade Union Act, in order to fulfil one of our manifesto commitments. The regulations implement the Act's provisions in relation to the 40% threshold for approval for strike action in important public services in the education and transport sectors. I have explained the purpose and we have debated it well this afternoon. We are taking proportionate action, which redresses the balance by ensuring unions in these sectors have a strong, clear and recent democratic mandate before they take strike action. I believe the proposals are fair and appropriate and I commend the regulations to the Committee.

3.18 pm

Chris Stephens: I have heard what the Minister has to say. The first thing I would say is that in the industrial actions that have been referred to, the thresholds would have been met, so I do not understand why they have been cited.

There is a very real issue regarding the impact the measures will have on the devolved Administrations, particularly in Scotland. The UK Government have determined that employment law is entirely reserved. I am totally dissatisfied that no explanation has been given as to what discussions have taken place with the Scottish Government. That is a very real issue, where tensions can easily arise. Finally, it would be useful if the Minister told us what penalties would be applied to any local authority or devolved Administration that ignored the thresholds and allowed industrial action to take place.

Question put.

The Committee divided: Ayes 9, Noes 6.

Division No. 1]

Barclay, Stephen
Davies, Dr James
Drummond, Mrs Flick
James, Margot
Johnson, Gareth

AYES

Mathias, Dr Tania
Mills, Nigel
Morton, Wendy
Sunak, Rishi

NOES

Debonnaire, Thangam
Furniss, Gill
Gray, Neil

Lammy, rh Mr David
McGovern, Alison
Stephens, Chris

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Important Public Services (Education) Regulations 2017.

DRAFT IMPORTANT PUBLIC SERVICES (TRANSPORT) REGULATIONS 2017

Motion made, and Question put,

That the Committee has considered the draft Important Public Services (Transport) Regulations 2017.—(Margot James.)

The Committee divided: Ayes 9, Noes 6.

Division No. 2]

Barclay, Stephen
Davies, Dr James
Drummond, Mrs Flick
James, Margot
Johnson, Gareth

AYES

Mathias, Dr Tania
Mills, Nigel
Morton, Wendy
Sunak, Rishi

NOES

Debonnaire, Thangam
Furniss, Gill
Gray, Neil

Lammy, rh Mr David
McGovern, Alison
Stephens, Chris

Question accordingly agreed to.

3.22 pm

Committee rose.