



# Employment Act 1980

## 1980 CHAPTER 42

### *Trade union ballots and Codes of Practice*

#### **1 Payments in respect of secret ballots**

- (1) The Secretary of State may by regulations make a scheme (below called " the scheme ") providing for payments by the Certification Officer towards expenditure incurred by independent trade unions in respect of such ballots to which this section applies as may be prescribed by the scheme.
- (2) This section applies to a ballot if the purpose of the question to be voted upon (or if there is more than one such question, the purpose of any of them) falls within the purposes mentioned in subsection (3) below.
- (3) The purposes referred to in subsection (2) above are —
  - (a) obtaining a decision or ascertaining the views of members of a trade union as to the calling or ending of a strike or other industrial action ;
  - (b) carrying out an election provided for by the rules of a trade union;
  - (c) electing a worker who is a member of a trade union to be a representative of other members also employed by his employer;
  - (d) amending the rules of a trade union ;
  - (e) obtaining a decision in accordance with the Trade Union (Amalgamations, etc.) Act 1964 on a resolution to approve an instrument of amalgamation or transfer;and such other purposes as the Secretary of State may by order specify.
- (4) The scheme may include provision for payments to be made towards expenditure incurred by an independent trade union in respect of arrangements to hold a ballot which is not proceeded with but which, if it had been held, would have been a ballot to which this section applies.
- (5) The circumstances in which and the conditions subject to which payments may be made under the scheme, and the amounts of the payments, shall be such as may be prescribed by or determined in accordance with the scheme; and the scheme shall include provision for restricting the cases in which payments are made to cases in

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which the ballot is so conducted as to secure, so far as reasonably practicable, that those voting may do so in secret.

- (6) The Secretary of State shall out of money provided by Parliament pay to the Certification Officer such sums as he may require for making payments under the scheme.
- (7) Any power to make regulations or orders under this section shall be exercisable by statutory instrument; and—
  - (a) a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) no order shall be made under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (8) Expressions used in this section and in the 1974 Act have the same meanings in this section as in that Act.

## **2 Secret ballots on employer's premises**

- (1) Subject to subsection (3) below, where an independent trade union proposes that a relevant ballot be held and requests an employer to permit premises of his to be used for the purpose of giving workers employed by him who are members of the union a convenient opportunity of voting, the employer shall, so far as reasonably practicable, comply with the request.
- (2) A ballot is a relevant ballot for the purposes of this section if—
  - (a) as respects the purpose of the question (or one of the questions) to be voted upon, the ballot satisfies the requirements of a scheme under section 1 of this Act, and
  - (b) the proposals for the conduct of the ballot are such as to secure, so far as reasonably practicable, that those voting may do so in secret.
- (3) Subsection (1) above shall not apply where, at the time the request is made.—
  - (a) the union is not recognised by the employer to any extent for the purpose of collective bargaining, or
  - (b) the number of workers employed by the employer, added to the number employed by any associated employer, does not exceed twenty.
- (4) A trade union may present a complaint to an industrial tribunal that it has made a request in accordance with subsection (1) above and that it was reasonably practicable for the employer to comply with it, but that he has failed to do so.
- (5) An industrial tribunal shall not entertain a complaint under this section unless it is presented to the tribunal before the end of the period of three months beginning with the date of the failure, or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of three months.
- (6) Where a tribunal finds that a complaint under this section is well-founded, the tribunal shall make a declaration to that effect, and may make an award of compensation to be paid by the employer to the union which shall be of such amount as the tribunal considers just and equitable in all the circumstances having regard to the employer's

default in failing to comply with the request and to any expenses incurred by the union in consequence of the failure.

- (7) An appeal shall lie to the Employment Appeal Tribunal on a question of law arising from any decision of, or arising in proceedings before, an industrial tribunal under this section.
- (8) The remedy of a trade union for a failure to comply with a request made in accordance with subsection (1) above shall be by way of a complaint under this section and not otherwise.
- (9) Expressions used in this section and in the 1974 Act have the same meanings in this section as in that Act.

### **3 Issue by Secretary of State of Codes of Practice**

- (1) The Secretary of State may issue Codes of Practice containing such practical guidance as he thinks fit for the purpose of promoting the improvement of industrial relations.
- (2) The Secretary of State shall after consultation with the Advisory, Conciliation and Arbitration Service (whether carried out before or after the passing of this Act) prepare and publish a draft of any Code of Practice that he proposes to issue under this section.
- (3) The Secretary of State shall consider any representations made to him about a draft prepared under subsection (2) above and may modify the draft accordingly.
- (4) If the Secretary of State determines to proceed with the draft he shall lay it before both Houses of Parliament and, if it is approved by resolution of each House, shall issue the Code in the form of the draft.
- (5) A Code of Practice issued under this section shall come into operation on such day as the Secretary of State may by order appoint; and an order under this subsection—
  - (a) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient;
  - (b) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The Secretary of State may from time to time revise the whole or any part of a Code of Practice issued under this section and issue that revised Code, and subsections (2) to (5) above shall apply to such a revised Code as they apply to the first issue of a Code.
- (7) If the Secretary of State is of the opinion that the provisions of a Code of Practice to be issued under this section will supersede the whole or part of a Code previously issued by him under this section or by the Advisory, Conciliation and Arbitration Service under section 6 of the 1975 Act or having effect by virtue of paragraph 4 of Schedule 17 to that Act, he shall in the new Code state that on the day on which the new Code comes into operation in pursuance of an order under subsection (5) above the old Code or a specified part of it shall cease to have effect (subject to any transitional provisions or savings made by the order).
- (8) A failure on the part of any person to observe any provision of a Code of Practice issued under this section shall not of itself render him liable to any proceedings; but in any proceedings before a court or industrial tribunal or the Central Arbitration Committee—
  - (a) any such Code shall be admissible in evidence, and

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- (b) any provision of the Code which appears to the court, tribunal or Committee to be relevant to any question arising in the proceedings shall be taken into account in determining that question.