



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART V

#### INDUSTRIAL ACTION

##### *Requirement of ballot before action by trade union*

#### **226 Requirement of ballot before action by trade union.**

(1) An act done by a trade union to induce a person to take part, or continue to take part, in industrial action [<sup>F1</sup>

- (a) is not protected unless the industrial action has the support of a ballot, and
- (b) where section 226A falls to be complied with in relation to the person's employer, is not protected as respects the employer unless the trade union has complied with section 226A in relation to him.]

<sup>F2</sup>[In this section "the relevant time", in relation to an act by a trade union to induce a person to take part, or continue to take part, in industrial action, means the time at which proceedings are commenced in respect of the act.]

(2) Industrial action shall be regarded as having the support of a ballot only if—

- <sup>F3</sup>[<sup>F4</sup>(a) the union has held a ballot in respect of the action—
  - (i) in relation to which the requirements of section 226B so far as applicable before and during the holding of the ballot were satisfied,
  - (ii) in relation to which the requirements of sections 227 to [<sup>F5</sup>231]] were satisfied,<sup>F6</sup>...
  - <sup>F7</sup>(*ia*) in which at least 50% of those who were entitled to vote in the ballot did so, and]
  - <sup>F8</sup>(*iii*) in which [<sup>F8</sup> the required number of persons (see subsections (2A) to (2C)) ] answered "Yes" to the question applicable in accordance

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*Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Section 226 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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with section 229(2) to industrial action of the kind to which the act of inducement relates;

- (b) such of the requirements of the following sections as have fallen to be satisfied at the relevant time have been satisfied, namely—
  - (i) section 226B so far as applicable after the holding of the ballot, and
  - (ii) section 231B; [<sup>F9</sup>. . .]
- [<sup>F4</sup>(bb) section 232A does not prevent the industrial action from being regarded as having the support of the ballot; and]
- (c) the requirements of section 233 (calling of industrial action with support of ballot) are satisfied.

Any reference in this subsection to a requirement of a provision which is disapplied or modified by section 232 has effect subject to that section.

[<sup>F10</sup>(2A) In all cases, the required number of persons for the purposes of subsection (2)(a)(iii) is the majority voting in the ballot.

(2B) There is an additional requirement where the majority of those who were entitled to vote in the ballot are at the relevant time normally engaged in the provision of important public services, unless at that time the union reasonably believes this not to be the case.

(2C) The additional requirement is that at least 40% of those who were entitled to vote in the ballot answered “Yes” to the question.

(2D) In subsection (2B) “important public services” has the meaning given by regulations made by statutory instrument by the Secretary of State.

(2E) Regulations under subsection (2D) may specify only services that fall within any of the following categories—

- (a) health services;
- (b) education of those aged under 17;
- (c) fire services;
- (d) transport services;
- (e) decommissioning of nuclear installations and management of radioactive waste and spent fuel;
- (f) border security.

[ But regulations under subsection (2D) may not specify services provided by a [<sup>F11</sup>(2EA) devolved Welsh authority.]

(2F) No regulations shall be made under subsection (2D) unless a draft of them has been laid before Parliament and approved by a resolution of each House of Parliament.]

(3) Where separate workplace ballots are held by virtue of [<sup>F12</sup>section 228(1)—

- (a) industrial action shall be regarded as having the support of a ballot if the conditions specified in subsection (2) are satisfied, and
- (b) the trade union shall be taken to have complied with the requirements relating to a ballot imposed by section 226A if those requirements are complied with, in relation] to the ballot for the place of work of the person induced to take part, or continue to take part, in the industrial action.

**Changes to legislation:** Trade Union and Labour Relations (Consolidation) Act 1992, Section 226 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[<sup>F13</sup>(3A) If the requirements of section 231A fall to be satisfied in relation to an employer, as respects that employer industrial action shall not be regarded as having the support of a ballot unless those requirements are satisfied in relation to that employer.]

(4) For the purposes of this section an inducement, in relation to a person, includes an inducement which is or would be ineffective, whether because of his unwillingness to be influenced by it or for any other reason.

#### Textual Amendments

- F1** S. 226(1)(a)(b) substituted (30.8.1993) for words by 1993 c. 19, s. 18(1); S.I. 1993/1908, art. 2(1), **Sch. 1**
- F2** Words in s. 226(1) inserted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 73(a)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F3** S. 226(2)(a)-(c) and proviso substituted (30.8.1993) for s. 226(2)(a)-(c) by 1993 c. 19, s. 49(2), **Sch. 8 para. 73(b)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F4** S. 226(2)(bb) inserted (18.9.2000) by 1999 c. 26, s. 4, Sch. 3 paras. 1, **2(1)(2)**; S.I. 2000/2242, art. **2(2)** (with transitional provisions in s. 4)
- F5** Words in s. 226(2)(a)(ii) substituted (18.9.2000) by 1999 c. 26, s. 4, Sch. 3 paras. 1, **2(1)(2)**; S.I. 2000/2242, art. **2(2)** (with transitional provisions in art. 4)
- F6** Word in s. 226(2)(a)(ii) omitted (1.3.2017) by virtue of Trade Union Act 2016 (c. 15), s. 25(1), **Sch. 4 para. 12**; S.I. 2017/139, reg. 2(n)(i)
- F7** S. 226(2)(a)(ia) inserted (1.3.2017) by Trade Union Act 2016 (c. 15), ss. **2(1)**, 25(1) (with s. 2(2)); S.I. 2017/139, reg. 2(a)
- F8** Words in s. 226(2)(a)(iii) substituted (5.12.2016 for specified purposes, 1.3.2017 in so far as not already in force) by Trade Union Act 2016 (c. 15), ss. **3(1)**, 25(1) (with s. 3(3)); S.I. 2016/1170, reg. 2(a); S.I. 2017/139, reg. 2(b)
- F9** Words in s. 226(2)(b) omitted (18.9.2000 and repealed *prosp.*) by virtue of 1999 c. 26, ss. 4, 44, 45(1), Sch. 3 paras. 1, 2(1)(2), Sch. 9(1); S.I. 2000/2242, art. **2(2)** (with transitional provisions in art. 4)
- F10** S. 226(2A)-(2F) inserted (5.12.2016 for specified purposes, 1.3.2017 in so far as not already in force) by Trade Union Act 2016 (c. 15), ss. **3(2)**, 25(1) (with s. 3(3)); S.I. 2016/1170, reg. 2(a); S.I. 2017/139, reg. 2(b)
- F11** S. 226(2EA) inserted (E.W.) (13.9.2017) by Trade Union (Wales) Act 2017 (anaw 4), ss. **1(4)**, 3; S.I. 2017/903, art. 2
- F12** Words in s. 226(3) substituted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 73(c)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F13** S. 226(3A) inserted (18.9.2000) by 1999 c. 26, ss. 4, Sch. 3 paras. 1, **2(1)(3)** (with transitional provisions in art. 4)

#### Modifications etc. (not altering text)

- C1** S. 226 applied (14.8.2000) by S.I. 2000/1828, art. **2(5)(c)**

**Changes to legislation:**

Trade Union and Labour Relations (Consolidation) Act 1992, Section 226 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212A(1)(zb) inserted by [2023 c. 46 Sch. para. 1](#)