

*These notes refer to the Employment Relations Act 1999  
(c.26) which received Royal Assent on 27 July 1999*

# EMPLOYMENT RELATIONS ACT 1999

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Trade unions*

#### *Section 4 and Schedule 3: Ballots and Notices*

#### **Overtime and call-out bans**

140. Section 229(2) of the 1992 Act provides that the voting paper in an industrial action ballot must contain either or both of two questions asking whether the voter is prepared to take part in a “strike” or in “industrial action short of a strike”. In some cases, it has been unclear whether overtime bans and call-out bans were strikes or industrial action short of a strike, and court action has ensued. Recent authority has concluded that an overtime ban is strike action. *Paragraph 6(2)* reverses this decision and clarifies the status of call-out bans by defining both these forms of industrial action as “industrial action short of a strike” for the purposes of section 229(2). *Paragraph 6(4)* ensures that the definition of a “strike” as “a concerted stoppage of work”, which is given in section 246 of the 1992 Act, does not apply to overtime bans and call-out bans for the purposes of the law on voting papers.