
Changes to legislation: There are currently no known outstanding effects for the Employment Relations Act 1999, Paragraph 5. (See end of Document for details)

SCHEDULES

SCHEDULE 3

BALLOTS AND NOTICES

Separate workplace ballots

5 The following shall be substituted for section 228 (separate workplace ballots)—

“228 Separate workplace ballots.

- (1) Subject to subsection (2), this section applies if the members entitled to vote in a ballot by virtue of section 227 do not all have the same workplace.
- (2) This section does not apply if the union reasonably believes that all those members have the same workplace.
- (3) Subject to section 228A, a separate ballot shall be held for each workplace; and entitlement to vote in each ballot shall be accorded equally to, and restricted to, members of the union who—
 - (a) are entitled to vote by virtue of section 227, and
 - (b) have that workplace.
- (4) In this section and section 228A “workplace” in relation to a person who is employed means—
 - (a) if the person works at or from a single set of premises, those premises, and
 - (b) in any other case, the premises with which the person’s employment has the closest connection.

228A Separate workplaces: single and aggregate ballots.

- (1) Where section 228(3) would require separate ballots to be held for each workplace, a ballot may be held in place of some or all of the separate ballots if one of subsections (2) to (4) is satisfied in relation to it.
- (2) This subsection is satisfied in relation to a ballot if the workplace of each member entitled to vote in the ballot is the workplace of at least one member of the union who is affected by the dispute.
- (3) This subsection is satisfied in relation to a ballot if entitlement to vote is accorded to, and limited to, all the members of the union who—
 - (a) according to the union’s reasonable belief have an occupation of a particular kind or have any of a number of particular kinds of occupation, and
 - (b) are employed by a particular employer, or by any of a number of particular employers, with whom the union is in dispute.

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- (4) This subsection is satisfied in relation to a ballot if entitlement to vote is accorded to, and limited to, all the members of the union who are employed by a particular employer, or by any of a number of particular employers, with whom the union is in dispute.
- (5) For the purposes of subsection (2) the following are members of the union affected by a dispute—
- (a) if the dispute relates (wholly or partly) to a decision which the union reasonably believes the employer has made or will make concerning a matter specified in subsection (1)(a), (b) or (c) of section 244 (meaning of “trade dispute”), members whom the decision directly affects,
 - (b) if the dispute relates (wholly or partly) to a matter specified in subsection (1)(d) of that section, members whom the matter directly affects,
 - (c) if the dispute relates (wholly or partly) to a matter specified in subsection (1)(e) of that section, persons whose membership or non-membership is in dispute,
 - (d) if the dispute relates (wholly or partly) to a matter specified in subsection (1)(f) of that section, officials of the union who have used or would use the facilities concerned in the dispute.”

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