

**2005 No. 2421**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Employment Code of Practice (Access and Unfair Practices during Recognition and Derecognition Ballots) Order 2005**

<i>Made</i> - - - -	<i>30th August 2005</i>
<i>Laid before Parliament</i>	<i>1st September 2005</i>
<i>Coming into force</i> - -	<i>1st October 2005</i>

Whereas—

(1) under section 203(1)(a) of the Trade Union and Labour Relations (Consolidation) Act 1992(a) (referred to in these recitals as “the 1992 Act”) 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) under section 203(2) of the 1992 Act the Secretary of State may from time to time revise the whole or any part of a Code of Practice issued by him and issue that revised Code;

(3) under paragraphs 26(8) and (9)(b) and 118(8) and (9)(b) of Schedule A1 to the 1992 Act(b) the Secretary of State’s power under section 203(1)(a) of that Act includes power to issue Codes of Practice about reasonable access for the purposes of, respectively, paragraphs 26(3) and 118(3) of that Schedule and about the duty imposed, respectively, by paragraphs 26(4A) and 118(4A) of that Schedule;

(4) under paragraphs 27A(5) and 119A(5) of Schedule A1 to the 1992 Act(c) the Secretary of State’s power under section 203(1)(a) of that Act includes power to issue Codes of Practice about unfair practices for the purposes of, respectively, paragraphs 27A(1) to (3) and 119A(1) to (3) of that Schedule;

(5) in pursuance of section 203(1)(a) and (2) of the 1992 Act the Secretary of State proposes to revise the whole of the Code of Practice on Access to Workers during Recognition and Derecognition Ballots which came into effect on 6th June 2000(d) and to issue a Code of Practice on Access and Unfair Practices during Recognition and Derecognition Ballots (“the draft Code”);

(6) in pursuance of section 204(1) of the 1992 Act, the Secretary of State, after consultation with the Advisory, Conciliation and Arbitration Service, prepared and published the draft Code of Practice on Access and Unfair Practices during Recognition and Derecognition Ballots;

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(a) 1992 c.52.

(b) Schedule A1 was inserted by section 1 of the Employment Relations Act 1999 (1999 c.26) and is amended by Part I of and Schedules 1 and 2 to the Employment Relations Act 2004 (2004 c.24) (“the 2004 Act”). It makes provision relating to trade union recognition for collective bargaining. It includes provisions relating to access to workers and duties of employers, unions and workers in connection with trade union recognition and derecognition ballots. Paragraphs 26 and 118 of Schedule A1 are amended by section 9 of the 2004 Act.

(c) Paragraphs 27A and 119A of Schedule A1 are inserted by sections 10 and 13, respectively, of the 2004 Act.

(d) The Code of Practice on Access to Workers during Recognition and Derecognition Ballots was brought into force by S.I. 2000/1443.

(7) in pursuance of section 204(1) of the 1992 Act, the Secretary of State considered representations made to him about the draft Code and modified the draft accordingly;

(8) in pursuance of section 204(2) of the 1992 Act, the Secretary of State laid the draft Code before both Houses of Parliament, the draft Code was approved by resolution of each House of Parliament and the Secretary of State is issuing the Code of Practice on Access and Unfair Practices during Recognition and Derecognition Ballots in the form of that draft;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 204(3) of the Trade Union and Labour Relations (Consolidation) Act 1992, hereby makes the following Order:

#### **Citation, commencement and interpretation**

1. This Order may be cited as the Employment Code of Practice (Access and Unfair Practices during Recognition and Derecognition Ballots) Order 2005 and comes into force on 1st October 2005.

#### **Appointed date for code of practice**

2. The day appointed for the coming into effect of the Code of Practice on Access and Unfair Practices during Recognition and Derecognition Ballots issued by the Secretary of State pursuant to section 203 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the draft of which was laid before both Houses of Parliament on 5th July 2005 and approved by a resolution of the House of Commons on 18th July 2005 and of the House of Lords on 19th July 2005) is 1st October 2005.

#### **Transitional Provisions**

3. The Code of Practice described in article 2 will only apply in the case of any recognition or derecognition ballot where the parties are informed by the Central Arbitration Committee under paragraph 25(9) or 117(11), respectively, on or after 1st October 2005.

4. Where the parties are informed by the Central Arbitration Committee under paragraph 25(9) or 117(11) before 1st October 2005 the Code of Practice on Access to Workers during Recognition and Derecognition Ballots will continue to apply.

30th August 2005

*Barry Gardiner*  
Minister for Competitiveness  
Department for Trade and Industry

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force, on 1st October 2005, the Code of Practice on Access and Unfair Practices during Recognition and Derecognition Ballots, which is issued by the Secretary of State under section 204(2) of the Trade Union and Labour Relations (Consolidation) Act 1992.

This Order contains transitional provisions.

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