



Employment Relations Act 2004

2004 CHAPTER 24

PART 1

UNION RECOGNITION

12 Employer's notice to end bargaining arrangements

- (1) Paragraph 99 of Schedule A1 to the 1992 Act (employer's notice to bring bargaining arrangements to an end on grounds that fewer than 21 workers employed) is amended in accordance with subsections (2) and (3).
- (2) In sub-paragraph (3) (notice must comply with certain requirements), before paragraph (a) insert—
 - “(za) is not invalidated by paragraph 99A.”.
- (3) In sub-paragraph (7)(a), for “100” substitute “99A”.
- (4) After paragraph 99 of that Schedule insert—

“99A (1) A notice given for the purposes of paragraph 99(2) (“the notice in question”) is invalidated by this paragraph if—

- (a) a relevant application was made, or an earlier notice under paragraph 99(2) was given, within the period of 3 years prior to the date when the notice in question was given,
 - (b) the relevant application, or that earlier notice, and the notice in question relate to the same bargaining unit, and
 - (c) the CAC accepted the relevant application or (as the case may be) decided under paragraph 100 that the earlier notice under paragraph 99(2) complied with paragraph 99(3).
- (2) A relevant application is an application made to the CAC—
- (a) by the employer under paragraph 106, 107 or 128, or
 - (b) by a worker (or workers) under paragraph 112.”

Changes to legislation: There are currently no known outstanding effects for the Employment Relations Act 2004, Section 12. (See end of Document for details)

- (5) In paragraph 100(1) of that Schedule (the CAC must decide whether notice complies with paragraph 99(3)), at the beginning insert “ If an employer gives notice for the purposes of paragraph 99(2), ”.
- (6) In paragraph 101 of that Schedule (union’s application to challenge employer’s notice under paragraph 99), omit sub-paragraphs (4) and (5).
- (7) In paragraph 103 of that Schedule, after sub-paragraph (3) insert—
- “(3A) Sub-paragraph (3) does not prevent the notice from being treated for the purposes of the provisions mentioned in sub-paragraph (3B) as having been given.
- (3B) Those provisions are—
- (a) paragraphs 109(1), 113(1) and 130(1);
- (b) paragraph 99A(1) in its application to a later notice given for the purposes of paragraph 99(2).”
- (8) In sub-paragraph (1) of each of paragraphs 109, 113 and 130 of that Schedule (bar on applications for ending bargaining arrangements if relevant application made within previous 3 years)—
- (a) in paragraph (a), after “was made” insert “ , or a notice under paragraph 99(2) was given, ”;
- (b) in paragraph (b), after “the relevant application” insert “ , or notice under paragraph 99(2), ”; and
- (c) in paragraph (c), at the end insert “ or (as the case may be) decided under paragraph 100 that the notice complied with paragraph 99(3) ”.
- (9) In sub-paragraph (2) of each of those paragraphs (meaning of “relevant application”), omit paragraph (a).

Commencement Information

II S. 12 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch. (with art. 9(1))

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