



# Employment Relations Act 2004

## 2004 CHAPTER 24

### PART 6

#### MISCELLANEOUS

#### **54 Means of voting in ballots and elections**

- (1) The Secretary of State may by order provide, in relation to any description of ballot or election authorised or required by the 1992 Act, that any ballot or election of that description is to be conducted by such one or more permissible means as the responsible person determines.
- (2) A “permissible means” is a means of voting that the order provides is permissible for that description of ballot or election.
- (3) “The responsible person” is a person specified, or of a description specified, by the order.
- (4) An order under this section may—
  - (a) include provision about the determinations that may be made by the responsible person, including provision requiring specified factors to be taken into account, or specified criteria to be applied, in making a determination;
  - (b) allow the determination of different means of voting for voters in different circumstances;
  - (c) allow a determination to be such that voters have a choice of means of voting.
- (5) The means that an order specifies as permissible means must, in the case of any description of ballot or election, include (or consist of) postal voting.
- (6) An order under this section may—
  - (a) include supplemental, incidental and consequential provisions;
  - (b) make different provision for different cases or circumstances.
- (7) An order under this section may—
  - (a) modify the provisions of the 1992 Act;

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*Status: This is the original version (as it was originally enacted).*

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- (b) exclude or apply (with or without modifications) any provision of that Act;
  - (c) make provision as respects any ballot or election conducted by specified means which is similar to any provision of that Act relating to ballots or elections.
- (8) The power to make an order under this section is exercisable by statutory instrument.
- (9) No order may be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (10) The Secretary of State shall not make an order under this section which provides that a means of voting is permissible for a description of ballot or election unless he considers—
  - (a) that a ballot or election of that description conducted by that means could, if particular conditions were satisfied, meet the required standard; and
  - (b) that, in relation to any ballot or election of that description held after the order comes into force, the responsible person will not be permitted to determine that that means must or may be used by any voters unless he has taken specified factors into account or applied specified criteria.
- (11) In specifying in an order under this section factors to be taken into account or criteria to be applied by the responsible person, the Secretary of State must have regard to the need for ballots and elections to meet the required standard.
- (12) For the purposes of subsections (10) and (11) a ballot or election meets “the required standard” if it is such that—
  - (a) those entitled to vote have an opportunity to do so;
  - (b) votes cast are secret;
  - (c) the risk of any unfairness or malpractice is minimised.
- (13) In this section “specified” means specified in an order under this section.