

EMPLOYMENT RELATIONS ACT 2004

EXPLANATORY NOTES

COMMENTARY

Part One: Union Recognition

Postal votes for workers absent from ballot at workplace

62. *Section 8* amends paragraphs 25 and 117 of Schedule A1. Paragraph 25 applies where the CAC arranges to hold a ballot on union recognition. Paragraph 25(4) provides that the ballot must be conducted, depending on the CAC's preference, at a workplace, by post or by a combination of these methods. The CAC's decision on the form of the ballot must take into account:
- the likelihood of the ballot being affected by unfairness or malpractice if it were conducted at a workplace or workplaces;
 - costs and practicality; and
 - such other matters as the CAC considers appropriate.
63. The CAC may not decide that the ballot is to be conducted by a combination of postal and workplace voting unless special factors make this appropriate. Paragraph 117 mirrors these provisions in the case of ballots on derecognition.
64. *Section 8* amends the provisions of these paragraphs to allow workers who are allotted a vote at the workplace to vote by post if they are unable for reasons specific to them to attend their workplace on the day of the ballot.
65. *Subsection (1)* inserts sub-paragraph (6A) into paragraph 25. Where the CAC decides that the ballot must be conducted (in whole or in part) at the workplace, subparagraph (6A) enables it to require arrangements to be made to allow workers who are unable to vote at the workplace for reasons relating to themselves as individuals (for example illness, leave etc.) to vote by post.
66. *Subsection (2)* inserts sub-paragraph (8A) into paragraph 117, and allows for postal votes in similar circumstances when the CAC decides that a ballot on derecognition must be conducted wholly or in part at the workplace.
67. In combination, the paragraphs inserted by subsections (1) and (2) make clear that a ballot should not be considered to be a combination ballot solely because the CAC makes arrangements, in accordance with the paragraphs, under which a worker or workers voting in a workplace ballot will receive a postal vote.