

Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Paragraph 117 is up to date with all changes known to be in force on or before 04 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

^{F1}SCHEDULE A1

COLLECTIVE BARGAINING: RECOGNITION

Textual Amendments

F1 Sch. A1 (paras. 1-173) inserted (6.6.2000) by 1999 c. 26, s. 1(3), **Sch. 1**; S.I. 2000/1338, **art. 2(d)**

Modifications etc. (not altering text)

C1 Sch. A1 (paras. 1-173) applied (14.8.2000) by S.I. 2000/1282, **art. 2(5)(a)**

C1 Sch. A1 modified (temp. from 6.4.2005) by The Employment Relations Act 2004 (Commencement No.3 and Transitional Provisions) Order 2005 (S.I. 2005/872), arts. 4, **21**, Sch. (with arts. 6-21)

PART IV

DERECOGNITION: GENERAL

Ballot on derecognition

- 117 (1) This paragraph applies if the CAC accepts an application under paragraph 106 or 107.
- (2) This paragraph also applies if—
- (a) the CAC accepts an application under paragraph 112, and
 - (b) in the period mentioned in paragraph 116(1) there is no agreement or withdrawal as there described.
- (3) The CAC must arrange for the holding of a secret ballot in which the workers constituting the bargaining unit are asked whether the bargaining arrangements should be ended.
- (4) The ballot must be conducted by a qualified independent person appointed by the CAC.
- (5) The ballot must be conducted within—
- (a) the period of 20 working days starting with the day after that on which the qualified independent person is appointed, or
 - (b) such longer period (so starting) as the CAC may decide.
- (6) The ballot must be conducted—
- (a) at a workplace or workplaces decided by the CAC,
 - (b) by post, or
 - (c) by a combination of the methods described in sub-paragraphs (a) and (b), depending on the CAC's preference.

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- (7) In deciding how the ballot is to be conducted the CAC must take into account—
- (a) the likelihood of the ballot being affected by unfairness or malpractice if it were conducted at a workplace or workplaces;
 - (b) costs and practicality;
 - (c) such other matters as the CAC considers appropriate.
- (8) The CAC may not decide that the ballot is to be conducted as mentioned in sub-paragraph (6)(c) unless there are special factors making such a decision appropriate; and special factors include—
- (a) factors arising from the location of workers or the nature of their employment;
 - (b) factors put to the CAC by the employer or the union (or unions).
- [^{F1}(8A) If the CAC decides that the ballot must (in whole or in part) be conducted at a workplace (or workplaces), it may require arrangements to be made for workers—
- (a) who (but for the arrangements) would be prevented by the CAC’s decision from voting by post, and
 - (b) who are unable, for reasons relating to those workers as individuals, to cast their votes in the ballot at the workplace (or at any of them),
- to be given the opportunity (if they request it far enough in advance of the ballot for this to be practicable) to vote by post; and the CAC’s imposing such a requirement is not to be treated for the purposes of sub-paragraph (8) as a decision that the ballot be conducted as mentioned in sub-paragraph (6)(c).]
- (9) A person is a qualified independent person if—
- (a) he satisfies such conditions as may be specified for the purposes of this paragraph by order of the Secretary of State or is himself so specified, and
 - (b) there are no grounds for believing either that he will carry out any functions conferred on him in relation to the ballot otherwise than competently or that his independence in relation to the ballot might reasonably be called into question.
- (10) An order under sub-paragraph (9)(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) As soon as is reasonably practicable after the CAC is required under sub-paragraph (3) to arrange for the holding of a ballot it must inform the employer and the union (or unions)—
- (a) that it is so required;
 - (b) of the name of the person appointed to conduct the ballot and the date of his appointment;
 - (c) of the period within which the ballot must be conducted;
 - (d) whether the ballot is to be conducted by post or at a workplace or workplaces;
 - (e) of the workplace or workplaces concerned (if the ballot is to be conducted at a workplace or workplaces).

Textual Amendments

F1 Sch. A1 para. 117(8A) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 8(2), 59(2)-(4)**; [S.I. 2005/872](#), **art. 4**, Sch. (with [arts. 6-21](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212A(1)(zb) inserted by [2023 c. 46 Sch. para. 1](#)