

1988 No. 1118 (C.38)

TRADE UNIONS

**The Employment Act 1988 (Commencement No. 1)
Order 1988**

Made - - - -

27th June 1988

The Secretary of State, in exercise of the powers conferred on him by subsections (2) and (3) of section 34 of the Employment Act 1988(a), hereby makes the following Order:-

Citation and interpretation

1.—(1) This Order may be cited as the Employment Act 1988 (Commencement No. 1) Order 1988.

(2) In this Order, “the Act” means the Employment Act 1988.

Commencement provisions

2. The sections of the Act specified in the first column of the Schedule to this Order shall come into force on 26th July 1988 (hereinafter referred to as “the first commencement date”).

3. The following sections of the Act shall come into force on 26th July 1989, that is to say—

- (a) section 12 (Extension to non-voting positions of duty to hold elections) to the extent that it is not brought into force on the first commencement date;
- (b) section 33(1) (Minor and consequential amendments) to the extent that it relates to paragraphs 5(5)(a) and 5(6) of Schedule 3 to the Act (which respectively amend sections 8(1) and 9(1) of the 1984 Act(b)); and
- (c) section 33(2) (Repeals) to the extent that it relates to the repeals in sections 1(1) to (3) and 8(1) of the 1984 Act specified in Schedule 4 to the Act.

Transitional provisions

4.—(1) Nothing in section 1 of the Act, or in section 17 of or paragraph 5(7) or (8) of Schedule 3 to the Act so far as those provisions are relevant to the said section 1, shall apply to the authorisation or endorsement of any industrial action induced with the support of a ballot in respect of which the first day for the casting of votes falls before the first commencement date.

(2) For the purposes of paragraph (1) of this Article an inducement of industrial action is with the support of a ballot if, but only if, the ballot is a ballot in respect of which the requirements of sections 10 and 11 of the 1984 Act (without the amendments to those sections made by the said section 17 of and paragraphs 5(7) and (8) of Schedule 3 to the Act) are satisfied.

(a) 1988 c.19.
(b) 1984 c.49.

5. Section 2 of the Act shall not apply to any relevant matter if a person has made an application to the union before the first commencement date for that matter to be submitted for determination or arbitration.

6. Section 7 of the Act shall not apply in relation to any certificate given by an employee to his employer before the first commencement date.

7. Nothing in section 10 of the Act or in paragraph 4 of Schedule 3 to the Act shall apply to an act done before the first commencement date.

8. Nothing in section 11 of the Act, in paragraph 2(1) or (2) of Schedule 3 to the Act or in the repeals to the 1978 Act(a), the Employment Act 1980(b) and the 1982 Act(c) specified in Schedule 4 to the Act shall apply—

- (a) so far as those provisions relate to action short of dismissal, where the action complained of, or where that action is part of a series of actions the last action, occurs before the first commencement date; or
- (b) so far as those provisions relate to dismissal, where the effective date of termination as defined in subsection (4) of section 55 of the 1978 Act, or where a later date is to be treated as the effective date of termination by virtue of subsection (5) or (6) and subsection (7) of that section that later date, falls before the first commencement date.

9. Where an election is held on or after the first commencement date but the latest time at which a person may become a candidate in that election falls before that date the requirements of section 13 of the Act shall be taken to be satisfied if—

- (a) all the candidates are given one of the following entitlements (being the same entitlement for each candidate), that is to say—
 - (i) to distribute an election address to those persons entitled to vote in the election;
 - (ii) to have distributed to those persons an election address submitted to the union by the candidate;
 - (iii) if it is the practice of the union to include election addresses in a publication sent to or made available to members of the trade union, to have an election address included in such a publication;
- or
- (b) no candidate is given any of the entitlements mentioned above or any other entitlement to bring to the attention of members of the union, or have brought to their attention, any written election address.

10. Neither the repeal of section 3 of the 1984 Act made by section 14(2) of the Act, the provisions of paragraph 5(2)(b) of Schedule 3 to the Act nor the repeal in section 9(1) of the 1984 Act made by section 33 of and Schedule 4 to the Act shall have effect in relation to any election if the first day on which votes may be cast in the ballot for the election falls before the commencement date.

11. Section 16 of the Act shall not apply to any ballot for the purposes of the 1913 Act(d) taken before the first commencement date.

12.—(1) Nothing in section 17 of the Act or in paragraph 5(7) or (8) of Schedule 3 to the Act shall apply in relation to an act done by a trade union with the support of a ballot in respect of which the first day for the casting of votes falls before the first commencement date.

(2) For the purposes of paragraph (1) of this Article an act is done with the support of a ballot if, but only if, the ballot is a ballot in respect of which the requirements of sections 10 and 11 of the 1984 Act (without the amendments to those sections made by section 17 of the Act and paragraphs 5(7) and (8) of Schedule 3 to the Act) are satisfied.

(a) 1978 c.44.
(d) 1913 c.30.

(b) 1980 c.42.

(c) 1982 c.46.

13. The amendments made to section 5 of the Employment Act 1980 by paragraph 3(2) of Schedule 3 to the Act shall not apply in relation to an application for an award of compensation made before the first commencement date.

Signed by order of the Secretary of State.

27th June 1988

John Cope
Minister of State,
Department of Employment

SCHEDULE 1

(1) <i>Sections of the Act brought into force on the first commencement date</i>	(2) <i>Subject matter of sections</i>
Section 1	Right to a ballot before industrial action
Section 2	Right not to be denied access to the courts etc.
Section 3	Right not to be unjustifiably disciplined
Section 4	Complaint of infringement of right under section 3
Section 5	Further remedies for infringement of right under section 3
Section 6	Right to inspect union's accounting records
Section 7	Right to require employer to stop deductions of union subscriptions
Section 9	Remedy against trustees for unlawful use of property
Section 10	Industrial action to enforce membership
Section 11	Action by an employer to enforce membership
Section 12(2), and (6) so far as it defines the meaning of "principal executive committee"	Exemption from duty to hold elections for unions involved in mergers
Section 13	Election addresses
Section 14	Requirement of postal ballot for certain ballots and elections
Section 16	Remedy with respect to ballot on use of funds for political purposes
Section 17	Ballots on industrial action affecting different places of work
Section 22	Procedure before the Certification Officer
Section 23	Interlocutory and interim orders
Section 33 so far as it relates to the provisions of Schedule 3 to the Act specified in Appendix A and to the repeals specified in Schedule 4 to the Act referred to in Appendix B	Minor and consequential amendments and repeals

APPENDIX A

(1) <i>Provisions in Schedule 3 to the Act brought into force on the first commencement date</i>	(2) <i>Enactments and provisions amended</i>
Paragraph 2	Sections 23, 58, 133 and 136 of the 1978 Act and paragraphs 18 and 21A of Schedule 11 to that Act
Paragraph 3	Sections 2 and 5 of the Employment Act 1980
Paragraph 4	Section 14 of the 1982 Act
In paragraph 5, sub-paragraphs (1), (2)(b), (3), (4)(a), 4(b) so far as it relates to section 13 of the Act, (4)(c), (5)(b) so far as it relates to section 13 of the Act, (5)(c), (5)(d), (7), (8) and (9)	Sections 1, 2, 3, 4, 5, 8, 10, 11 and 22 of the 1984 Act
Paragraph 6	Sections 1 and 5 of the Wages Act 1986(a)

APPENDIX B

Repeals specified in Schedule 4 to the Act brought into force on the first commencement date

The repeal in section 4(1F) of the 1913 Act
The repeals of section 4(6) of and Schedule 1 to the Trade Union (Amalgamations, etc.) Act 1964(b)
The repeals in sections 23(1) and 58(1) of, of section 58A of, and in section 153(1) of the 1978 Act
The repeal of section 15(2) of the Employment Act 1980
The repeals of sections 10(1) and (2) of and paragraph 16 of Schedule 3 to the 1982 Act
The repeals of section 3 and 6(6) of and in section 9(1) of the 1984 Act

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 26th July 1988 the sections of Part I of the Employment Act 1988 set out in the Schedule to the Order and the amendments and repeals, which are related to those sections, set out in the Appendices to the Schedule.

Article 3 brings into force on 26th July 1989 section 12 of the Act (to the extent that it is not brought into force on 26th July 1988) and the amendments and repeals related to it. Section 12 extends the existing duty on trade unions to hold elections in respect of the voting positions on their principal executive committees to cover non-voting positions on those committees and the positions of president and general secretary.

The Order contains transitional provisions.

(a) 1986 c.48.

(b) 1964 c.24.

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