

1988 No. 1123

TRADE UNIONS

**The Funds for Trade Union Ballots
(Amendment) Regulations 1988**

<i>Made</i>	<i>28th June 1988</i>
<i>Laid before Parliament</i>	<i>5th July 1988</i>
<i>Coming into force</i>	<i>26th July 1988</i>

The Secretary of State, in exercise of the powers conferred on him by section 1 of the Employment Act 1980(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Funds for Trade Union Ballots (Amendment) Regulations 1988 and shall come into force on 26th July 1988.

Interpretation

2. In these Regulations –

“the 1980 Regulations” means the Funds for Trade Union Ballots Regulations 1980(b);

“the 1982 Regulations” means the Funds for Trade Union Ballots (Amendment) Regulations 1982(c);

“the 1984 Regulations” means the Funds for Trade Union Ballots Regulations 1984(d).

Revocation and application

3.—(1) The 1980 Regulations and the 1982 Regulations are hereby revoked.

(2) Regulations 1(2) and 2 of the 1984 Regulations and the definition of “the 1980 Regulations” in regulation 3 of the 1984 Regulations are hereby revoked.

(3) The amendments made to the 1984 Regulations by regulations 5 to 12 of these Regulations shall apply to a ballot if, but only if, the first day for casting votes in that ballot falls on or after 26th July 1988.

(a) 1980 c.42; section 1 was amended by section 20 of the Trade Union Act 1984 (c.49); the Secretary of State specified a purpose additional to the purposes referred to in section 1(2) by the Funds for Trade Union Ballots Order 1982 (S.I. 1982/953). (b) S.I. 1980/1252. (c) S.I. 1982/1108. (d) S.I. 1984/1654.

4. In regulation 3 of the 1984 Regulations (interpretation), after the definition of "the 1984 Act", there shall be inserted " "the 1988 Act" means the Employment Act 1988"(a).

5.—(1) In regulation 8 of the 1984 Regulations, after paragraph (1), there shall be inserted:

"(1A) The Certification Officer may, if he thinks fit, accept an application under paragraph (1) above in respect of more than one ballot relating to the same question or to related questions and in any such case, for all purposes of these regulations, he shall proceed as if each ballot had been the subject of a separate application."

(2) In paragraph (2) of regulation 8 of the 1984 Regulations, after "form" there shall be inserted ", shall contain such assurances" and after "other" shall be inserted "assurances and".

6. In regulation 9 of the 1984 Regulations, after paragraph (3), there shall be inserted:

"(4) For the avoidance of doubt, in paragraph (2) above, "legal proceedings" includes proceedings before the Certification Officer under section 4 of the 1964 Act, under section 5 of the 1984 Act or under section 16 of the 1988 Act."

7. For regulation 10 of the 1984 Regulations there shall be substituted:

"10.—(1) Except as provided by regulation 24 below, the Certification Officer shall not make any payments under regulations 14 to 18 below unless he considers that adequate assurances have been given by the trade union as to compliance with –

(a) the conditions mentioned in regulation 11 below (which are applicable to all ballots); and

(b) such of the conditions mentioned in regulation 12 below (which are applicable to specific questions asked in ballots) as are applicable to the question or questions asked in the ballot.

(2) for the purposes of paragraph (1) above, the Certification Officer shall not consider adequate such assurances as have been given if, on consideration of any matter which has come to his notice, he is of the opinion that any of the conditions referred to in that paragraph has not been satisfied."

8. In regulation 11 of the 1984 Regulations, for "10(a)(i)" there shall be substituted "10(1)(a)".

9.—(1) In regulation 12 of the 1984 Regulations, for "10(a)(ii)" there shall be substituted "10(1)(b)".

(2) For paragraph (a) of regulation 12 of the 1984 Regulations there shall be substituted:

"(a) in the case of a question the purpose of which falls within paragraph (a) of regulation 5 above and is concerned only with the ending of a strike or other industrial action –

(i) that the ballot was conducted so as to secure, so far as reasonably practicable, that all the members participating in the action were entitled to vote; and

(ii) that as soon as was reasonably practicable after the holding of the ballot the trade union took such steps as were reasonably necessary to ensure that all persons entitled to vote on that question were informed of the number of –

(a) 1988 c.19.

- (A) votes cast on that question;
- (B) individuals voting in favour of that question;
- (C) individuals voting against that question; and
- (D) spoiled ballot papers;”.

(3) For paragraph (b) of regulation 12 of the 1984 Regulations there shall be substituted:

“(b) in the case of a question the purpose of which falls within paragraph (a) of regulation 5 above, other than a question to which paragraph (a) of this regulation relates, that subsections (1), (1A), (1B), (2), (3), (4) and (8) of section 11 of the 1984 Act have, within the meaning of that section, been satisfied in relation to the ballot;”.

(4) Paragraph (c) of regulation 12 of the 1984 Regulations shall cease to have effect.

(5) In regulation 12 of the 1984 Regulations, after paragraph (e), there shall be inserted:

“(ea) in the case of a question the purpose of which falls within paragraph (b)(i) of regulation 5 above, that the requirements of subsection (2) of section 13 of the 1988 Act have been satisfied in relation to that ballot;”.

10.—(1) In paragraph (1) of regulation 13 of the 1984 Regulations, for “Where paragraph (2) of this regulation applies” there shall be substituted “In the case of a question the purpose of which falls within paragraphs (a) or (f) of regulation 5 above”.

(2) Paragraph (2) of regulation 13 of the 1984 Regulations shall cease to have effect.

11. In paragraph (b) of regulation 22 of the 1984 Regulations, the words “following a request by the Certification Officer” shall be deleted and for “10(b)” there shall be substituted “10(1)”.

12.—(1) In paragraph (1) of regulation 24 of the 1984 Regulations, for “paragraph (d)” there shall be substituted “paragraphs (b)(i), (d) or (e)”.

(2) In regulation 24 of the 1984 Regulations, after paragraph (1), there shall be inserted:

“(1A) In the case of a ballot containing a question the purpose of which falls within paragraph (b)(i) of regulation 5 above, no account shall be taken for the purposes of paragraph (d) of regulation 12 above of the treatment of any overseas member.

(1B) In the case of a ballot containing a question the purpose of which falls within paragraph (e) of regulation 5 above, no account shall be taken, for the purposes of paragraph (h) of regulation 12, of the treatment of overseas members if rules made by the trade union for the purpose of complying with section 4(1) of the 1913 Act in relation to the ballot provided for such members not to be accorded entitlement to vote in the ballot.”.

(3) In regulation 24 of the 1984 Regulations, for paragraph (2) there shall be substituted:

“(2) Where the Certification Officer is of the opinion that any of the conditions mentioned in regulation 11 and 12 above has not been satisfied in respect of overseas members, or any overseas member, but he considers that in all other respects adequate assurances have been given by the trade union he may, subject to paragraph (3) below, make payments under regulation 14 to 18 above, notwithstanding regulation 10 above.”.

Signed by order of the Secretary of State.

28th June 1988.

John Cope
Minister of State,
Department of Employment.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the scheme under which the Certification Officer makes payments to independent trade unions in respect of postal, printing and stationery expenses which they have incurred in holding secret postal ballots for certain purposes. The amendments are largely made to reflect additions and changes to the statutory requirements in respect of certain ballots brought in by the Employment Act 1988 and coming into force on 26th July 1988.

In particular, amendments made by these Regulations link the conditions for payment under the scheme –

- (i) in the case of certain election ballots, to the requirements of section 13 of the 1988 Act as regards election addresses;
- (ii) in the case of certain industrial action ballots, to the requirements of section 17 of the Act as regards ballots affecting different places of work.

Other minor and consequential changes are also made to the scheme.

These Regulations come into force on 26th July 1988 and the amendments they contain apply to ballots in which voting begins on or after that date.

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