STATUTORY INSTRUMENTS

1980 No. 1252

TRADE UNIONS

The Funds for Trade Union Ballots Regulations 1980

Made - - - -	18*th August* 1980
Laid before Parliament	8*th September* 1980
Coming into Operation	1*st October* 1980

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 Regulations 1980 and shall come into operation on 1st October 1980.

Interpretation

2. In these Regulations—

"the post" means a postal service provided by the Post Office or a similar service lawfully provided by any other person, and cognate expressions shall be construed accordingly;

"the Scheme" means the scheme made by these Regulations;

"the 1964 Act" means the Trade Union (Amalgamations, etc.) Act 1964(**b**).

Scope of the Scheme

3. Subject to Regulations 5 to 7 below, the Scheme applies to a ballot if—

(*a*) the purpose of the question, or of each of the questions, to be voted upon falls within the purposes mentioned in Regulation 4 below; or

(*b*) the purpose of one or more of the questions to be voted upon falls within the said purposes and each other question to be voted upon relates to the same issue as a question the purpose of which falls within the said purposes.

4. The purposes referred to in Regulation 3 above are—

(*a*) obtaining a decision or ascertaining the views of members of a trade union as to the calling or ending of a strike or other industrial action;

(*b*) carrying out an election provided for by the rules of a trade union to the principal committee having the executive responsibility for managing the affairs of the trade union, whether known as the executive committee or by any other name;

(**a**) 1980 c. 42. (**b**) 1964 c. 24.

(*c*) carrying out an election provided for by the rules of a trade union to the positions of president, chairman, secretary or treasurer of the trade union or to any position which the person elected will hold as an employee of the trade union;

(*d*) amending the rules of a trade union;

(*e*) obtaining a decision in accordance with the 1964 Act on a resolution to approve an instrument of amalgamation or transfer.

5. The Scheme applies only to ballots which are so conducted as to secure, so far as reasonably practicable, that those voting may do so in secret.

6. The Scheme does not apply to a ballot if the arrangements for the conduct of the ballot do not—

(*a*) require those voting to do so by marking a voting paper; and

(*b*) provide that those voting shall individually return the voting paper by post to the trade union conducting the ballot or to another person responsible for counting the votes.

7. The Scheme applies to a ballot if the end of the period for voting falls on or after 1st October 1980 but nothing in this Regulation shall enable the Certification Officer to make payments in respect of expenditure incurred before 1st August 1980.

Application for payments

8.—(1) An independent trade union claiming to have incurred expenditure on a ballot to which the Scheme applies may apply to the Certification Officer.

(2) An application under paragraph (1) above shall be made in such form and shall be accompanied by such other documents as the Certification Officer may require.

9. If the Certification Officer is satisfied that an application under paragraph (1) of Regulation 8 above is in respect of a ballot to which the Scheme applies he shall proceed in accordance with the following Regulations.

Conditions to be satisfied if payment is to be made

10. Except as provided in Regulation 12 below the Certification Officer shall not make any payments under Regulations 13 to 16 below if—

(*a*) on consideration of any matter which has come to his notice, he is of the opinion that any of the conditions mentioned in Regulation 11 below have not been satisfied; or

(*b*) any assurance he requests from the trade union relating to the said conditions is not given.

11. The conditions referred to in Regulation 10 above are—

(*a*) that the holding of the ballot was not in contravention of the rules of the trade union;

(*b*) that any requirements in the rules of the trade union as to the conduct of the ballot were complied with;

(*c*) in the case of a ballot containing a question for the purpose of ascertaining the views of members of a trade union as to the calling or ending of a strike or other industrial action, that, so far as reasonably practic-

able, the ballot was conducted so as to secure that all members likely to be called upon to participate in the action, or participating in the action, as the case may be, were entitled to vote;

(*d*) that those entitled to vote were allowed to vote without interference or constraint;

(*e*) that, so far as reasonably practicable, those entitled to vote had a fair opportunity of voting;

(*f*) that where the votes on any question have not been counted, the decision not to count them was taken because of a change in circumstances occurring after the first day on which voting papers were despatched or given to persons entitled to vote which materially affected the issue to which the question related;

(*g*) that where the votes cast have been counted, they have been fairly counted.

12.—(1) If the Certification Officer is of the opinion that the conditions mentioned in Regulation 11 were not satisfied only because the condition mentioned in paragraph (*b*) of that Regulation was not satisfied he may make payments towards the expenditure incurred in respect of the ballot if he is of the opinion that the failure to comply with the requirements referred to therein had no significant effect upon the proper conduct of the ballot.

(2) If the ballot has been conducted for the purpose of obtaining a decision in accordance with the 1964 Act on a resolution to approve an instrument of amalgamation or transfer—

(*a*) the condition mentioned in paragraph (*a*) of Regulation 11 above does not apply to the ballot;

(*b*) the condition mentioned in paragraph (*b*) of Regulation 11 above does not apply to any failure to comply with the rules of the trade union which is sanctioned by section 2 of the 1964 Act;

(*c*) if arrangements have been made under section 2(2) of the 1964 Act the Certification Officer shall not make any payments under Regulations 13 to 16 below if—

(i) on consideration of any matter which has come to his notice, he is of the opinion that the manner in which the vote was taken was not in accordance with the arrangements and that in consequence there was a significant effect upon the proper conduct of the ballot, or,

(ii) any assurance he requests from the trade union relating to the manner in which the vote was taken is not given.

Payments towards stationery and printing expenditure

13.—(1) The Certification Officer shall make a payment towards the expenditure incurred by the trade union on stationery and printing in respect of—

(*a*) voting papers, envelopes for sending out and returning voting papers and any additional envelopes used for the purpose of helping to secure the secrecy of the voting;

(*b*) that part of any material enclosed with the voting papers which explains the matter to which the question to be voted upon relates or the procedure for voting.

(2) The amount of the payment referred to in paragraph (1) above shall, if the Certification Officer considers the expenditure incurred to have been reasonable, be the amount spent, or, if he considers the expenditure incurred to have been unreasonable, the amount which he considers would have been reasonable.

Payment towards postal costs

14.—(1) If the post has been used to send voting papers to persons entitled to vote, the Certification Officer shall make a payment towards the postal expenditure incurred by the trade union in sending to the persons entitled to vote the voting papers, envelopes and material referred to in Regulation 13 above in respect of which a payment is payable.

(2) Subject to Regulation 16 below, the amount of the payment referred to in paragraph (1) above shall be—

(*a*) to the extent that second class post or a cheaper postal means was used, the amount spent on such use;

(*b*) to the extent that a more expensive postal means was used, the amount which would have been spent if second class post had been used, or, if the Certification Officer considers the use of the more expensive means to have been reasonable in the circumstances, the amount spent on such use.

15.—(1) The Certification Officer shall make a payment towards the postal expenditure (if any) incurred by the trade union in paying for the persons entitled to vote to return their voting papers by post.

(2) Subject to Regulation 16 below, the amount of the payment referred to in paragraph (1) above shall be—

(*a*) to the extent that second class post, a cheaper postal means or prepaid letter post was used, the amount spent on such use;

(*b*) to the extent that a means more expensive than second class post was used (not being prepaid letter post) the amount which would have been spent if second class post had been used, or, if the Certification Officer considers the use of the more expensive means to have been reasonable in the circumstances, the amount spent on such use.

16. If the Certification Officer considers that additional postal expenditure has been incurred by the use of paper of a greater quantity or heavier quality than is reasonable, a payment made under Regulation 14 or 15 above shall not include the amount of the additional postal expenditure so incurred.

Provisions as to payments

17. The Certification Officer shall not make any payments until the expiration of a period of six weeks beginning with whichever is the last of the following dates—

(*a*) the date on which the results relating to the questions asked in the ballot in respect of which the votes were counted have been made available to the persons entitled to vote;

(*b*) the date on which an application is made under Regulation 8 above;

(*c*) in the case of a ballot conducted for the purposes of the 1964 Act where the amalgamating or transferor trade union has passed a resolution approving the instrument of amalgamation or transfer and an

application has been made to register the instrument or the Certification Officer has reason to believe that such an application will be made, the date of registration of the instrument or, if a complaint is made under section 4 of the 1964 Act and the Certification Officer makes an order under subsection (3) of that section specifying steps which must be taken before he will entertain any application to register the instrument, the date on which the order is made.

18. All payments shall be made to the applicant trade union.

Arrangements to hold ballots

19. The Scheme applies to arrangements to hold a ballot which is not proceeded with if voting papers have been despatched or given to persons entitled to vote before the decision not to proceed with the ballot is taken and, accordingly, in relating to arrangements to which the Scheme applies by virtue of this Regulation, these Regulations shall have effect with such modifications as may be appropriate.

Special provisions as to amalgamations and transfers of engagements

20. If an amalgamating or transferor trade union has passed a resolution approving an instrument of amalgamation or transfer under section 1 of the 1964 Act which is registered and, having incurred expenditure in respect of a ballot, has either made application under Regulation 8 above before the date of registration of the instrument, or, being eligible to make such an application, has not done so before that date, and the amalgamated or transferee trade union is an independent trade union, then—

(*a*) with effect from the date of registration of the instrument the amalgamated or transferee trade union shall be treated for the purposes of the Scheme other than Regulations 10 to 12 above as if, in a case where an application under Regulation 8 has been made before that date, it were the applicant trade union and in that case and the case where no such application has been made it had incurred the expenditure in respect of the ballot;

(*b*) an assurance following a request by the Certification Officer pursuant to Regulations 10(*b*) or 12(2)(*c*)(ii) above shall be treated as being given by the amalgamating or transferor trade union if given by a person who was an officer of that union immediately before the date of registration of the instrument.

Special provisions as to section 2 of the Employment Act 1980

21. If on a complaint presented under section 2 of the Employment Act 1980 in respect of a ballot an industrial tribunal has made an award of compensation to be paid to a trade union and the Scheme applies to that ballot, the Certification Officer shall on an application under Regulation 8 above reduce the total of the payments made under Regulations 13 to 16 above by so much of the award as he considers relates to the expenditure in respect of which payments are to be made under the said Regulations.

18th August 1980.

James Prior,
Secretary of State for Employment.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations establish a scheme under which the Certification Officer will make payments to independent trade unions in respect of postal, printing and stationery expenditure which they have incurred in holding secret postal ballots for certain purposes; these purposes are set out in Regulation 4.

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