

EMPLOYMENT RELATIONS ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Trade unions

Section 1 and Schedule 1: Collective bargaining: Recognition

Part II: Voluntary Recognition

61. Part II deals with recognition agreements made in consequence of an application under Part I without there being any formal CAC declaration that the union is recognised (“agreements for recognition”). An employer is required to maintain an agreement for recognition for three years. If either party does not follow an agreed bargaining method, the union or the employer may apply to the CAC to impose a bargaining method, as in paragraph 31. Entirely voluntary agreements are not affected by Part II.
62. *Paragraph 52* provides that an agreement is an agreement for recognition if:
- the agreement was made in consequence of an application for recognition under paragraph 4 that is valid in terms of paragraphs 5-9;
 - the agreement is an agreement to recognise the union to conduct collective bargaining on behalf of a particular bargaining unit;
 - the union’s application under paragraph 4 and any subsequent application to the CAC under paragraph 11 or 12 have not been withdrawn, rejected or cancelled; and
 - if the union applied to the CAC under paragraph 11 or 12:
 - the parties have given notice to the CAC under paragraph 17 to cease consideration of the application; and
 - the CAC has not declared automatic recognition under paragraph 22 nor been required to arrange for a ballot under paragraph 24.
63. *Paragraphs 53 and 54* contain definitions, including a definition of collective bargaining as negotiations on matters the parties agree to bargain about, except for the purposes of a bargaining method imposed by the CAC. As in Part I, an imposed bargaining method will cover pay, hours and holidays.
64. *Paragraph 55* allows a party to apply to the CAC for a decision on whether an agreement is an agreement for recognition. *Paragraph 56* bars an employer from ending an agreement for recognition within 3 years of it being made; a union may end the agreement at any time, subject to the terms of the agreement. *Paragraph 57* provides that if the agreement for recognition is terminated, the bargaining method, whether imposed or not, also ceases to have effect.
65. *Paragraph 58* provides that, if the union and employer make an agreement for recognition, they have 30 working days in which to negotiate with a view to agreeing a bargaining method. If the employer and union do not agree a method for collective

*These notes refer to the Employment Relations Act 1999
(c.26) which received Royal Assent on 27 July 1999*

bargaining or an agreed method is not followed, either may apply to the CAC for assistance under paragraph 58 or 59. *Paragraph 60* ensures the employer has at least 21 workers and *paragraph 61* gives other requirements for the application. If the CAC decides under *paragraph 62* to accept the application, *paragraph 63* gives it 20 working days in which it must help the union and employer try to agree a bargaining method. If no agreement is reached, the CAC must specify the method for collective bargaining unless the parties jointly request otherwise. This is the same procedure as that under paragraph 31 in respect of collective bargaining following an award of recognition under the statutory procedure and - as with the paragraph 31 procedure - the Secretary of State may specify a model collective bargaining method under paragraph 168.