Good Work Lab

FREE EMPLOYER GUIDE / NOVEMBER 2026

Trade Union Ballot Thresholds: 18 Employer FAQs

Industrial action votes, turnout requirements, the 2026 reforms and the crucial distinction from statutory recognition ballots.

DO NOT CONFUSE TWO DIFFERENT BALLOTS

Industrial action ballots and statutory recognition ballots operate under different tests. The additional 40% support test for important public services was removed in February 2026, but the separate 50% industrial action turnout requirement had not been removed in the reference materials reviewed for this guide.

UPDATED FOR THE 2026 INDUSTRIAL RELATIONS REFORMS

Employer-facing guidance based on Good Work Lab's legal reference library. See the important commencement qualification in the final section.

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01 / START WITH THE RIGHT BALLOT

Understanding what the numbers mean

01 Are industrial action ballots and recognition ballots the same thing?

No. An **industrial action ballot** asks eligible trade union members whether they support proposed strike action or action short of a strike. A **statutory recognition ballot**, where the Central Arbitration Committee (CAC) orders one, asks workers in the determined bargaining unit whether the union should be recognised for collective bargaining. The electorates, procedures and thresholds are different; the result of one ballot cannot be used as the legal test for the other.

TULRCA 1992, sections 226-234 and Schedule A1, paragraphs 22-29.

02 What thresholds apply to an industrial action ballot?

Under the legal position described in Good Work Lab's current reference materials, two conditions are required: **at least 50% of those entitled to vote must participate**, and **a majority of the votes cast for the relevant proposal must favour industrial action**. These are separate tests. The 50% turnout requirement is due to be removed by a distinct commencement step under section 68 of the Employment Rights Act 2025; the source materials reviewed do not establish that this repeal has commenced.

TULRCA 1992, section 226; Employment Rights Act 2025, sections 68 and 159.

03 Does the extra 40% support requirement still apply to important public services?

Not for ballots governed by the reforms effective from **18 February 2026**. The additional requirement that at least 40% of all eligible voters must support action in specified important public services was removed by section 69 of the Employment Rights Act 2025, subject to transitional rules. Do not confuse its removal with the distinct 50% turnout requirement, whose repeal was deliberately deferred.

Employment Rights Act 2025, section 69; 2026 commencement and saving provisions.

02 / CALCULATING THE INDUSTRIAL ACTION RESULT

Turnout is not the same as a Yes vote

04 How do we calculate the 50% turnout requirement?

Divide the number of eligible members who voted by the total number entitled to vote in that ballot. For example, with **100 eligible voters**, at least **50 must participate** to reach 50% turnout. A vote in favour from 30 of 40 voters is a 75% Yes vote among participants, but turnout is only 40%, so the industrial action mandate would fail the separate turnout condition if it applies.

TULRCA 1992, section 226; Employment Rights Act 2025, section 68 (uncommenced repeal in the reference materials).

05 How many Yes votes are enough once turnout is satisfied?

The proposal needs **more Yes votes than No votes** among valid votes cast on the question. With 100 eligible voters, 50 voting and a result of 26 Yes to 24 No, the turnout and majority tests are both satisfied. A 25-25 tie does not amount to a majority. Keep **turnout**, **valid votes** and **the Yes/No result** as separate figures when examining the ballot report.

TULRCA 1992, sections 226 and 229.

06 Do spoiled or invalid papers count towards turnout?

The statutory definition of voting introduced in the earlier regime includes those who returned spoiled or otherwise invalid ballot papers when calculating the number voting. However, those papers do not create valid Yes votes. The Employment Rights Act 2025 provides for the definition to be removed alongside the deferred repeal of the 50% turnout test. For an actual ballot, establish the applicable law, ballot-opening date and scrutineer's figures before calculating the result.

TULRCA 1992, section 297A; Employment Rights Act 2025, section 68.

03 / WHICH RULES HAVE CHANGED?

Avoid using an outdated threshold

07 Has the 50% industrial action turnout threshold already been abolished?

Not on the basis of the available reference materials. Parliament provided for abolition in section 68 of the Employment Rights Act 2025, but its commencement was separated from the February 2026 repeal of the additional 40% support test. The government linked the timing to evidence about new voting methods. Before applying or publishing this as an operative threshold for a live ballot, check whether later commencement regulations have brought section 68 into force.

Employment Rights Act 2025, sections 68 and 159(5); Trade Union balloting measures introduced August 2026.

08 Can unions now hold electronic or workplace industrial action ballots?

Yes, under the relevant statutory and regulatory arrangements. From **25 August 2026**, trade unions have been able to use approved electronic, workplace, hybrid or postal voting methods for industrial action ballots. The chosen method must comply with the corresponding procedural, security and independent-scrutiny requirements. Availability of a new voting method does not, by itself, abolish the separate turnout requirement.

Trade Unions (Permissible Means of Voting) and Employment Rights (Unfair Dismissal) (Amendment) Order 2026 (SI 2026/881).

09 Does a workplace ballot mean an employer must automatically provide premises?

No. Workplace balloting involves the relevant access and voting arrangements; the source material addresses **voluntary employer access arrangements** for the conduct of workplace votes. Employers should assess proposed rooms, security, confidentiality and safe operation without confusing permission for a polling location with the separate statutory right of union workplace access. Specific requirements depend on the balloting method and agreed arrangements.

TULRCA 1992, industrial action ballot provisions; 2026 voting arrangements and Codes of Practice.

04 / WHO VOTES AND HOW IS THE BALLOT CONDUCTED?

The electorate matters as much as the percentage

10 Who should be included in an industrial action ballot?

The union must ballot members whom it reasonably believes it will induce to take part in the industrial action, subject to the statutory entitlement rules. The denominator for the turnout calculation is therefore the **eligible union-member electorate for that ballot**, not simply the employer's entire workforce. An employer should not assume that the ballot percentage can be checked against payroll headcount without first establishing the balloting constituency.

TULRCA 1992, sections 227 and 230.

11 Can ballots covering several workplaces be assessed together?

Potentially. The legislation distinguishes separate workplace ballots and aggregate ballots covering members across locations. A ballot covering more than one workplace may satisfy the statutory tests in aggregate where the relevant rules permit this; separate ballots must be assessed separately. Obtain the union's ballot notice, constituency information and scrutineer's report before treating one location's turnout or Yes vote as decisive for the others.

TULRCA 1992, sections 226-230; industrial action ballot procedures.

12 Who checks the ballot and its result?

Independent scrutiny is an important part of the industrial action ballot framework. A qualifying independent scrutineer is generally required, subject to a statutory exception for smaller ballots. For electronic or hybrid voting, additional security and verification requirements apply. Employers should review the reported number entitled to vote, turnout, votes for and against each proposition, spoiled ballots, dates and method used. A legal challenge should be based on a material procedural concern, not speculation about how members voted.

TULRCA 1992, section 226B and related provisions; 2026 electronic and workplace ballot framework.

05 / AFTER A SUCCESSFUL INDUSTRIAL ACTION BALLOT

A Yes result is not the whole legal test

13 Does a successful ballot mean industrial action can start immediately?

No. Statutory immunity depends on more than the voting result. The dispute and the union's conduct must satisfy the relevant statutory requirements, including the notice of the proposed action to affected employers. The 2026 reforms reduced the standard notice period for industrial action to **10 days** for cases to which the new provisions apply, with transitional rules for earlier notices. The separate notice of the ballot itself also has its own requirements.

TULRCA 1992, sections 226A, 234A and 244; Employment Rights Act 2025, sections 70 and 74.

14 How long can an industrial action ballot mandate remain effective?

For industrial action ballots **opened on or after 18 February 2026**, the statutory period of effectiveness was extended to **12 months**. Earlier ballots are subject to the previous regime and are not automatically extended merely because the law changed while a mandate was running. Record the opening and closing dates, the applicable rules and the proposed dates of action.

TULRCA 1992, section 234; Employment Rights Act 2025, section 72 and transitional provisions.

15 Does ballot success make every proposed action immune from legal challenge?

No. A union still needs to comply with the applicable ballot, notification and trade-dispute requirements for statutory immunity. A valid majority does not cure failures in the relevant procedure. Equally, an employer should distinguish a genuine legal defect from an operational concern about disruption. The sensible approach is to verify notices and ballot results promptly while preparing service-continuity arrangements and continuing constructive engagement.

TULRCA 1992, sections 219, 226-235 and 244.

06 / RECOGNITION BALLOTS ARE DIFFERENT

Do not transfer strike thresholds to recognition

16 What is the voting threshold in a statutory recognition ballot?

For statutory recognition ballots covered by the reforms from **6 April 2026**, the union needs a **simple majority of the workers voting**. The former additional requirement for Yes votes from at least 40% of the entire bargaining unit was removed. There are transitional rules for ballots which the CAC had already notified before 6 April 2026. The recognition test must be applied to the determined bargaining unit, not to an industrial action electorate.

TULRCA 1992, Schedule A1, paragraph 29; SI 2026/323.

17 Does the 50% industrial action turnout rule apply to recognition ballots?

No. The 50% turnout condition discussed in this guide concerns industrial action ballots. It is not a general trade union ballot threshold. In a statutory recognition ballot governed by the revised Schedule A1 rules, a simple majority of votes cast can support recognition even where fewer than half of workers in the bargaining unit vote. The CAC process and any applicable transitional rules must still be satisfied.

TULRCA 1992, Schedule A1, paragraph 29; section 226 (separate industrial action regime).

18 Is the 10% union membership test the same as the recognition ballot threshold?

No. For the post-April 2026 statutory recognition application process, the CAC must assess the prescribed **membership-support percentage** in the proposed or determined bargaining unit. The legal materials reviewed indicate that this presently remains **10%**, with enabling powers to prescribe a lower figure within the statutory range. This is an **application/admissibility test**, not the percentage of Yes votes needed to win a later recognition ballot.

TULRCA 1992, Schedule A1, paragraphs 36, 45 and 171B; Employment Rights Act 2025 reform provisions.

QUICK-REFERENCE / UNDERSTANDING THE NUMBERS

Three examples employers should know

Industrial action ballot	100 eligible; 40 vote; 30 Yes / 10 No	Fails the 50% turnout requirement while that requirement applies, despite 75% of valid votes being Yes.
Industrial action ballot	100 eligible; 50 vote; 26 Yes / 24 No	Satisfies both the 50% turnout condition and the simple majority condition, subject to all other requirements.
Recognition ballot	100 in unit; 30 vote; 16 Yes / 14 No	Satisfies the ballot majority threshold under the post-April 2026 recognition rules; no separate 50% turnout test.

COMPLIANCE / CONTROL / COLLABORATION

Employer ballot-readiness checklist

- **Classify the ballot.** Is it industrial action, statutory recognition, derecognition or another union vote?
- **Check the commencement position.** Confirm whether section 68's removal of the 50% industrial action turnout threshold has actually been brought into force before calculating a live result.
- **Check the eligible electorate.** Establish whether voters are eligible union members or workers in a determined recognition bargaining unit.
- **Separately calculate turnout and Yes-vote support.** Do not treat percentage of Yes votes as percentage turnout.
- **Identify transitions.** Note ballot-opening dates and whether rules introduced in February, April or August 2026 apply.
- **Verify notices, mandate and timetable.** Record ballot notices, results, any action notice and the end of a lawful mandate.
- **Secure negotiation authority.** Align Industrial Relations, operations, legal and communications teams on facts, contingencies and the employer's position.

2026 / KEY REFORM MILESTONES

What changed - and what did not

A practical date sequence for employers reviewing trade union ballots in 2026. Transitional provisions can change the rule applicable to an individual ballot.

18 FEB 2026	**Industrial action**	The additional 40% support threshold for important public services was removed; other procedural reforms included a 12-month mandate for new ballots.
6 APR 2026	**Recognition**	The extra 40%-of-the-bargaining-unit Yes-vote rule was removed for recognition ballots under the new system.
25 AUG 2026	**Balloting methods**	Electronic, workplace and hybrid voting became available for industrial action ballots under the applicable rules.
SEPARATE DATE	**50% turnout**	Repeal under section 68 requires its own commencement. The library sources reviewed do not establish that it is operative.

GOOD WORK LAB / INDUSTRIAL RELATIONS ADVISORY

We support employers facing recognition campaigns, industrial action ballots, collective bargaining disputes and complex union relationships. Our approach combines statutory compliance with clear negotiating authority and constructive engagement. **Discuss Your Industrial Relations Challenge** at goodworklab.co.uk.

LEGAL FRAMEWORK AND IMPORTANT COMMENCEMENT NOTE

Primary framework: Trade Union and Labour Relations (Consolidation) Act 1992, especially sections 219, 226-235, 244, 297A and Schedule A1, paragraphs 22-29; Employment Rights Act 2025, particularly sections 68, 69, 70, 72, 74 and 159; SI 2026/323 and SI 2026/881 where relevant.

Publication control: The source materials used for this edition describe repeal of the 50% industrial action turnout requirement under section 68 as awaiting separate commencement, notwithstanding the introduction of electronic and workplace ballots on 25 August 2026. **Before public release, confirm whether any later commencement instrument has altered that position.** Do not represent the guide as live, individually verified legal advice.

Important: General information for employers, not advice on an individual industrial dispute, ballot or statutory recognition application. Different rules may apply to earlier ballots and transitional cases.