
STATUTORY INSTRUMENTS

1993 No. 1908 (C. 34)

**TRADE UNIONS
TERMS AND CONDITIONS OF EMPLOYMENT**

The Trade Union Reform and Employment Rights Act 1993
(Commencement No. 1 and Transitional Provisions) Order 1993

Made - - - - 27th July 1993

The Secretary of State, in exercise of the powers conferred on him by section 52 of, and paragraph 1 of Schedule 9 to, the Trade Union Reform and Employment Rights Act 1993⁽¹⁾, hereby makes the following Order:—

Citation and interpretation

1.—(1) This Order may be cited as the Trade Union Reform and Employment Rights Act 1993 (Commencement No. 1 and Transitional Provisions) Order 1993.

(2) In this Order—

- (i) “the 1978 Act” means the Employment Protection (Consolidation) Act 1978⁽²⁾;
- (ii) “the 1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992⁽³⁾, and
- (iii) “the 1993 Act” means the Trade Union Reform and Employment Rights Act 1993.

Commencement

2.—(1) The provisions of the 1993 Act which are specified in Schedule 1 to this Order shall come into force on 30 August 1993.

(2) The provisions of the 1993 Act which are specified in Schedule 2 to this Order shall come into force on 30 November 1993.

(3) The provisions of the 1993 Act which are specified in Schedule 3 to this Order shall come into force on 1 January 1994.

(4) The remaining provisions of Part I of the 1993 Act (section 7(2) and (3)) and section 51 and Schedule 10 (repeals), so far as that section and that Schedule relate to sections 115 and 116 of the 1992 Act shall come into force on 1 April 1996⁽⁴⁾.

(1) 1993 c. 19.

(2) 1978 c. 44.

(3) 1992 c. 52.

(4) Section 7(1) will come into force on 1 April 1996 under the provisions of section 7(4).

Transitional Provisions

3.—(1) The amendments of the 1992 Act made by section 1 (election scrutineer to check register) and section 2 (counting of election votes etc. by independent person) of the 1993 Act shall apply to any election ballot held on or after 30 August 1993, other than a ballot in relation to which the scrutineer begins to carry out his functions in relation to the ballot before that date.

(2) The amendments of the 1992 Act made by section 3 of and Schedule 1 to the 1993 Act (political fund ballots) shall have effect only in relation to ballots in which votes may only be cast on or after 30 August 1993 and shall not have effect in relation to a ballot in any case in which—

- (a) the approval of the Certification Officer for the union's political ballot rules was sought after 1 January 1993;
- (b) the Certification Officer approved the political ballot rules before 1 July 1993, and
- (c) the voting in the ballot is completed on or before 31 December 1993.

(3) The amendments of the 1992 Act made by sections 4 (ballots for union amalgamations and transfers of engagements) and 5 (ballots for union amalgamations and transfers of engagements: notice not to include influential material) of the 1993 Act shall have effect only in relation to ballots in which votes may only be cast on or after 30 August 1993 and shall not have effect in relation to a ballot in any case in which—

- (a) the Certification Officer approved the instrument of amalgamation or transfer of engagements before 1 July 1993, and
- (b) the voting in the ballot is completed on or before 31 December 1993.

(4) The amendments of the 1992 Act made by section 6 of the 1993 Act (confidentiality of trade unions register of members' names and addresses) shall have effect in relation to—

- (a) any Chapter IV election held on or after 30 August 1993, other than an election in relation to which the scrutineer begins to carry out his functions before that date,
- (b) any Chapter VI ballot in which votes may only be cast on or after 30 August 1993, except a ballot in any case in which—
 - (i) the approval of the Certification Officer for the union's political ballot rules was sought after 1 January 1993;
 - (ii) the Certification Officer approved the political ballot rules before 1 July 1993, and
 - (iii) the voting in the ballot is completed on or before 31 December 1993.
- (c) any Chapter VII ballot in which votes may only be cast on or after 30 August 1993, except a ballot in any case in which—
 - (i) the Certification Officer approved the instrument of amalgamation or transfer of engagements before 1 July 1993, and
 - (ii) the voting in the ballot is completed on or before 31 December 1993.

(5) The amendments of the 1992 Act made by section 13 of the 1993 Act (action short of dismissal: non-infringing actions) shall have effect only in relation to action taken on or after 30 August 1993.

(6) Where a subscription deduction is treated, by virtue of paragraph 2 of Schedule 9 to the 1993 Act, as an authorised deduction for the purposes of the section substituted for section 68 of the 1992 Act by section 15 of the 1993 Act (right not to suffer deduction of unauthorised or excessive subscriptions) the amount of that deduction shall be treated, for the purposes of the substituted section, as not exceeding the permitted amount.

(7) The amendments of the 1992 Act made by section 17 of the 1993 Act (requirement of postal ballot) shall have effect only in relation to ballots in which votes may only be cast on or after 30 August 1993.

(8) The amendments of the 1992 Act made by section 18(2) of the 1993 Act (notice of ballot and sample voting papers for employers) shall have effect only in relation to ballots of which the opening day falls on or after 6 September 1993.

(9) The amendments of the 1992 Act made by sections 19 (ballot result for employers) and 20 (scrutiny of ballot) of the 1993 Act shall have effect only in relation to ballots in which votes may only be cast on or after 30 August 1993.

(a) (10) (a) The amendments of the 1992 Act made by section 21 of the 1993 Act (notice of industrial action for employers) shall have effect in relation to an act by a trade union to induce a person to take part, or continue to take part in industrial action if (in the case of continuous action) the intended date for any of the affected employees to begin to take part in the action, or (in the case of discontinuous action) the first of the dates for any of the affected employees to take part in the action, falls after 6 September 1993.

(b) Where those amendments apply to such an act of inducement to take part, or continue to take part, in industrial action but the amendments made to the 1992 Act by section 19 of the 1993 Act (ballot result for employers) are not in force in relation to the ballot in respect of that industrial action, the appropriate period (as defined in section 234A(4) of the 1992 Act) shall be regarded as beginning—

(i) if the union satisfies the requirement of section 231 (ballot result for members) of the 1992 Act in relation to the ballot on or after 30 August 1993, with the day on which it satisfies that requirement; or

(ii) if the union satisfies that requirement before 30 August 1993, on 30 August 1993.

(11) The amendments of the 1978 Act made by sections 24(2) and (3) (to the extent that they are brought into force by this Order), 28, 29 and 30 of and paragraphs 2 to 10 of Schedule 5 to the 1993 Act shall apply to any dismissal where the effective date of termination (as defined in the 1978 Act) in relation to that dismissal falls on or after 30 August 1993. The amendments of the 1978 Act made by paragraph 1 of Schedule 5 to the 1993 Act shall apply to any detriment to which the employee was subjected on or after 30 August 1993.

(12) The amendments set out in section 34 (redundancy consultation procedures) of the 1993 Act shall not have effect in relation to any dismissal which takes effect within 90 days after section 34 comes into force.

Signed by order of the Secretary of State

27th July 1993

Michael Forsyth
Minister of State,
Department of Employment

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Article 2(1)

PROVISIONS COMING INTO FORCE ON 30 AUGUST 1993

Provision	Subject Matter of Provision
Part I of the 1993 Act, except sections 7, 8, 9 and 14	Trade Unions etc.
Section 24(2) and (3), except for the purpose of giving effect to section 60(a) to (f) of the 1978 Act	Dismissal rights
Section 28	Rights to claim unfair dismissal and not to suffer detriment in health and safety cases
Section 29	Dismissal on ground of assertion of statutory rights
Section 30	Compensation for unfair dismissal when reinstatement or re-engagement ordered
Section 33	Amendments of transfer of undertakings regulations
Section 34	Redundancy consultation procedures
Section 35	Repeal of Part II of the Wages Act 1986
Section 36(3), for the purpose of inserting section 128(5) of the 1978 Act	Regulations to provide for industrial tribunal chairman to act alone
Section 38	Extension of power to confer on industrial tribunals jurisdiction in respect of contracts of employment etc.
Section 39	Agreements not to take proceedings before industrial tribunal
Section 40	Restriction of publicity in cases involving sexual misconduct: industrial tribunals
Section 41	Restriction of publicity in cases involving sexual misconduct: Employment Appeal Tribunal
Section 43	Functions of ACAS
Section 44	Fees for exercise of functions by ACAS
Section 47	Employment and training functions of Scottish Enterprise and Highlands and Islands Enterprise
Section 48	Interpretation
Section 49(1), so far as it relates to the amendments effected by Schedule 7 specified below	Miscellaneous amendments

Provision	Subject Matter of Provision
Section 49(2), so far as it relates to the amendments effected by Schedule 8 specified below	Consequential amendments
Section 50, so far as it relates to the transitional provisions and savings effected by Schedule 9 specified below	Transitional provisions and savings
Section 51, so far as it relates to the repeals and revocations specified in relation to Schedule 10 in the table below	Repeals and revocations
Schedule 1	Political fund ballots
Schedule 5	Employment protection in health and safety cases
Schedule 6	Compromise contracts
In Schedule 7, paragraphs 1, 2, 13, 14 to 27	Miscellaneous amendments
In Schedule 8, paragraphs 2, 6, 7, 11, 14, 20(a), 21, 24, 26(a)(i), 29, 32(b), 36 to 41, 43(b), 46, 47, 49, 52 to 61, 62(b), 63, 64(b) and (c), 65, 66(b), 67 to 75, 78 to 84 and 86 to 89. In addition paragraphs 16 (so far as it relates to section 60A(1) of the 1978 Act) and 76 and 77 (so far as they relate to section 57A of the 1978 Act).	Consequential amendments
In Schedule 9, paragraphs 1, 2, 4 and 5 In Schedule 10 the repeals and revocations specified in the table below	Transitional provisions and savings Repeals and revocations

Provision	Short Title	Extent of Repeal or Revocation
9 & 10 Eliz. 2 c.34	Factories Act 1961	Section 177(5)(b)
1965 c. 19 (N.I.)	Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965	Sections 23 and 23A. In section 29(1), the words “(except section 23)”. Section 32(4). Section 54(2). In Schedule 5, paragraph 2.
1968 c. 73	Transport Act 1968	Section 94(10)
1975 c. 24	House of Commons Disqualification Act 1975	In Part III of Schedule 1, the first entry beginning “Member of a Wages Council”.
1975 c. 25	Northern Ireland Assembly Disqualification Act 1975	In Part III of Schedule 1, the first entry beginning “Member of a Wages Council”.
S.I. 1976/1043 (N.I. 16).	Industrial Relations (Northern Ireland) Order 1976.	In Schedule 5, in Part II, paragraphs 19, 20 and 23(3).

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Provision	Short Title	Extent of Repeal or Revocation
1978 c. 44	Employment Protection (Consolidation) Act 1978	In section 18, in subsection (1), the words “council or”, subsection (2)(a), in subsection (3)(a), the words “(a) or”, and in subsection (5), the words “council or”. In section 53(4), the words “against his employer”. In section 55(5) and (6), “64A”. Section 64A. Section 93(4). Sections 94 and 95. In section 100(1), the words “except section 94”. In section 123(4) the words “, maternity pay under Part III of this Act”. In section 149(1) (c), “64A(1),”. In Schedule 12, paragraph 13. In Schedule 13, in paragraph 11(1), “64A(1)”.
1980 c. 42	Employment Act 1980	Section 8(1). In Schedule 1, paragraphs 10, 21(a) and 32.
S.I. 1981/1794	Transfer of Undertakings (Protection of Employment) Regulations 1981	In Regulation 2(1), in the definition of “undertaking”, the words from “but does not” to the end. Regulation 11(7).
1986 c. 48	Wages Act 1986	Section 9(3). Part II. Section 31(a) and (b). In section 33, in subsection (2) the entries relating to sections 24 and 25(1) to (3), in subsection (4) the words from “Part II (excluding” to “relating to Part II;” and in subsection (7) the words from “paragraphs 5” to “thereto,”. Schedules 2 and 3. In Schedule 4, paragraphs 5 to 7. In Schedule 6, paragraphs 1 to 8.
1988 c. 1	Income and Corporation Taxes Act 1988	In Section 175(4), the words “Part II of the Wages Act 1986,”.
1990 c. 35	Enterprise and New Towns (Scotland) Act 1990	In section 2(3), the word “and” at the end of paragraph (b).
1992 c. 24	Offshore Safety (Protection Against Victimisation) Act 1992	The whole Act.

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Provision	Short Title	Extent of Repeal or Revocation
1992 c. 52	Trade Union and Labour Relations (Consolidation) Act 1992	Section 24(4). In section 34(5), the second sentence. In section 43(1), the word “and” at the end of paragraph (b). In section 52(1), the word “and” at the end of paragraph (c). In section 65(2), the word “and” at the end of paragraph (d). In section 65(7), the word “and” following the definition of “contract of employment”. In section 74(3), the word “and” at the end of the entry relating to section 77. In section 78(1), the word “and” at the end of paragraph (c). In section 118(4), the word “and” at the end of paragraph (c). In section 135(3), the word “and” at the end of paragraph (c). In section 154, the words “and 64A”. In section 188(4), the word “and” at the end of paragraph (d). Section 190(3). In section 209, the words from “and in particular” to the end. In section 246, the definition of “place of work”. In section 249(2), the first sentence. Section 256(4). Section 273(4)(c). Section 283. In section 299, the entries relating to “the Commissioner” and “redundancy”. In Schedule 2, paragraphs 15 and 34(3).

SCHEDULE 2

Article 2(2)

Provisions coming into force on 30 November 1993

Provision	Subject Matter of Provision
Section 14	Right not to be excluded from or expelled from union
Section 49(2), so far as it relates to the amendments effected by Schedule 8 specified below	Consequential amendments

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Provision	Subject Matter of Provision
Section 51, so far as it relates to the repeals effected by Schedule 10 specified below	Repeals
Schedule 8, paragraphs 48, 50 and 51	Consequential amendments
Schedule 10, the repeals specified in the table below	Repeals

Chapter	Short Title	Extent of Repeal
c.52	Trade Union Reform and Labour Relations (Consolidation) Act 1992	Section 67(9). In section 288(1)(b), the word “unreasonable”. In section 290(e) the word “unreasonable” and the words “where employment subject to union membership agreement”. In section 291, subsection (1), and, in subsection (2), the words “any other provision of”.

SCHEDULE 3

Article 2(3)

Provisions coming into force on 1 January 1994

Provision	Subject Matter of Provision
Section 8	Annual return to contain additional information
Section 9	Statement to members following annual return
Section 49(2), so far as it relates to the amendments effected by Schedule 8 specified below	Consequential amendments
Section 51, so far as it relates to the repeals effected by Schedule 10 specified below	Repeals
Schedule 8, paragraphs 42, 43(a), 44, 45, 62(a), 64(a) and 66(a)	Consequential amendments
In Schedule 10, the repeal in section 32(3) of the 1992 Act of the word “and” at the end of paragraph (b)	Repeals

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Trade Union and Employment Rights Act 1993—

- (a) the provisions specified in Schedule 1 to the Order are to come into force on 30 August 1993;
- (b) the provisions specified in Schedule 2 to the Order are to come into force on 30 November 1993;
- (c) the provisions specified in Schedule 3 to the Order are to come into force on 1 January 1994, and
- (d) section 7(2) and (3) are to come into force on 1 April 1996. Section 7(1) will also come into force on that day in accordance with section 7(4). The consequential repeal of sections 115 and 116 of the Trade Union and Labour Relations (Consolidation) Act 1992 will come into force on the same day.

Transitional provisions are set out in Article 3.

Sections 52 to 55 of the 1993 Act came into force on Royal Assent. The remaining provisions will be brought into force by subsequent orders.