



Employment Protection Act 1975

1975 CHAPTER 71

PART I

MACHINERY FOR PROMOTING THE IMPROVEMENT OF INDUSTRIAL RELATIONS

Advisory, Conciliation and Arbitration Service, etc.

1 Advisory, Conciliation and Arbitration Service.

- (1) There shall be a body to be known as the Advisory, Conciliation and Arbitration Service, in this Act referred to as “the Service”.
- (2) The Service shall be charged with the general duty of promoting the improvement of industrial relations, and in particular of encouraging the extension of collective bargaining and the development and, where necessary, reform of collective bargaining machinery.
- (3) The provisions (so far as applicable) of Parts I and III of Schedule 1 to this Act shall have effect with respect to the Service.

2 Conciliation.

- (1) Where a trade dispute exists or is apprehended the Service may, at the request of one or more parties to the dispute or otherwise, offer the parties to the dispute its assistance with a view to bringing about a settlement.
- (2) The assistance offered by the Service may be by way of conciliation or by other means, and may include the appointment of a person other than an officer or servant of the Service to offer assistance to the parties to the dispute with a view to bringing about a settlement.
- (3) In exercising its functions under subsection (1) above, the Service shall have regard to the desirability of encouraging the parties to a dispute to use any appropriate agreed procedures for negotiation or the settlement of disputes.

Status: Point in time view as at 04/03/1991.

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- (4) The Service shall designate officers of the Service to perform the functions of conciliation officers under any enactment (including any provision of this Act or any Act passed after this Act) in respect of matters which are or could be the subject of proceedings before an industrial tribunal, and accordingly any reference in any such enactment to a conciliation officer is a reference to an officer designated under this subsection.

3 **Arbitration.**

- (1) Where a trade dispute exists or is apprehended the Service may, at the request of one or more parties to the dispute and with the consent of all the parties to the dispute, refer all or any of the matters to which the dispute relates for settlement to the arbitration of—
- (a) one or more persons appointed by the Service for that purpose (not being an officer or servant of the Service); or
 - (b) the Central Arbitration Committee constituted under section 10 below.
- (2) In exercising its functions under subsection (1) above, the Service shall consider the likelihood of the dispute being settled by conciliation and, where there exist appropriate agreed procedures for negotiation or the settlement of disputes, shall not refer a matter for settlement to arbitration under that subsection unless those procedures have been used and have failed to result in a settlement or unless, in the opinion of the Service, there is a special reason which justifies arbitration under that subsection as an alternative to those procedures.
- (3) Where in any case more than one arbitrator is appointed under subsection (1)(a) above the Service shall appoint one of the arbitrators to act as chairman.
- (4) An award by an arbitrator appointed under subsection (1)(a) above may be published if the Service so decides and all the parties consent.
- (5) Part I of the ^{M1}Arbitration Act 1950 shall not apply to an arbitration under this section.
- (6) In the application of this section to Scotland, references to an arbitrator shall be construed as references to an arbiter.

Marginal Citations

M1 1950 c. 27.

4 **Advice.**

- (1) The Service shall, if it thinks fit, on request or otherwise, provide, without charge, to employers, employers' associations, workers and trade unions such advice as it thinks appropriate on any matter concerned with industrial relations or employment policies, including the following—
- (a) the organisation of workers or employers for the purpose of collective bargaining;
 - (b) the recognition of trade unions by employers;
 - (c) machinery for the negotiation of terms and conditions of employment, and for joint consultation;
 - (d) procedures for avoiding and settling disputes and workers' grievances;

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- (e) questions relating to communication between employers and workers;
 - (f) facilities for officials of trade unions;
 - (g) procedures relating to the termination of employment;
 - (h) disciplinary matters;
 - (i) manpower planning, labour turnover and absenteeism;
 - (j) recruitment, retention, promotion and vocational training of workers;
 - (k) payment systems, including job evaluation and equal pay.
- (2) The Service may publish general advice on any matter concerned with industrial relations or employment policies, including any of the matters referred to in paragraphs (a) to (k) of subsection (1) above.

5 Inquiry.

- (1) The Service may, if it thinks fit, inquire into any question relating to industrial relations generally or to industrial relations in any particular industry or in any particular undertaking or part of an undertaking.
- (2) The findings of any inquiry under this section, together with any advice given by the Service in connection with those findings, may be published by the Service if—
- (a) it appears to the Service that publication is desirable for the improvement of industrial relations, either generally or in relation to the specific question inquired into; and,
 - (b) after sending a draft of the findings to, and taking into account the views of, all the parties appearing to the Service to be concerned, the Service thinks fit.

6 Codes of Practice.

- (1) The Service may issue Codes of Practice containing such practical guidance as the Service thinks fit for the purpose of promoting the improvement of industrial relations.
- (2) Without prejudice to the generality of subsection (1) above, the Service shall, in one or more Codes of Practice, provide practical guidance on the following matters . . . ^{F1}—
- (a) the disclosure of information, in accordance with sections 17 and 18 below, by employers to trade union representatives for the purpose of collective bargaining;
 - (b) the time off to be permitted by an employer—
 - (i) to a trade union official in accordance with [^{F2}section 27 of the ^{M2}Employment Protection (Consolidation) Act 1978, including guidance on the circumstances in which a trade union official is to be permitted to take time off under that section in respect of duties connected with industrial action; and]
 - (ii) to a trade union member in accordance with [^{F3}section 28 of the said Act of 1978, including guidance on the question whether, and the circumstances in which, a trade union member is to be permitted to take time off under that section for trade union activities connected with industrial action.]
- (3) When the Service proposes to issue a Code of Practice, it shall prepare and publish a draft of that Code, shall consider any representations made to it about the draft and may modify the draft accordingly.

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- (4) If the Service determines to proceed with the draft, it shall transmit the draft to the Secretary of State who shall—
- (a) if he approves of it, lay it before both Houses of Parliament; and
 - (b) if he does not approve of it, publish details of his reasons for withholding approval.
- (5) In the case of a draft Code of Practice containing practical guidance on the matters referred to in paragraph (a) or (b) of subsection (2) above, if the draft is approved by resolution of each House of Parliament the Service shall issue the Code in the form of the draft and the Code shall come into effect on such day as the Secretary of State may by order appoint.
- (6) In the case of a draft Code of Practice not containing such practical guidance, if, within the period of forty days beginning with the day on which a copy of the draft is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, either House so resolves, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft.
- (7) In reckoning the period of forty days referred to in subsection (6) above, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) If no such resolution is passed as is referred to in subsection (6) above, the Service shall issue the Code in the form of the draft and the Code shall come into effect on such day as the Secretary of State may by order appoint.
- (9) Without prejudice to section 123(3) below, an order under subsection (5) or subsection (8) above may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the Code of Practice thereby brought into operation.
- (10) The Service may from time to time revise the whole or any part of a Code of Practice issued under this section and issue that revised Code, and subsections (3) to (9) above shall apply (with appropriate modifications) to such a revised Code as they apply to the first issue of a Code.
- [^{F4} If the Service is of the opinion that the provisions of a Code of Practice to be issued ^{F4}(10A) under this section will supersede the whole or part of a Code previously issued by it under this section or by the Secretary of State under section 3 of the ^{M3}Employment Act 1980, it shall in the new Code state that on the day on which the new Code comes into effect in pursuance of an order under subsection (5) or (8) above the old Code or a specified part of it shall cease to have effect (subject to any transitional provisions or savings made by the order).]
- (11) A failure on the part of any person to observe any provision of a Code of Practice shall not of itself render him liable to any proceedings; but in any proceedings before an industrial tribunal or the Central Arbitration Committee any Code of Practice issued under this section shall be admissible in evidence, and if any provision of such a Code appears to the tribunal or Committee to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.]

Textual Amendments

F1 Words repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16](#)

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- F2** Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16 para. 23\(1\)\(2\)\(b\)](#)
- F3** Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16 para. 23\(1\)\(2\)\(c\)](#)
- F4** [S. 6\(10A\)](#) inserted by [Employment Act 1980 \(c. 42\)](#), [Sch. 1 para. 4](#)

Marginal Citations

- M2** [1978 c. 44](#).
- M3** [1980 c. 42](#).

7 Certification Officer.

- (1) The Secretary of State shall, after consultation with the Service, appoint an officer to be known as the Certification Officer.
- (2) The functions under the following Acts which before the commencement of this section were performed by the Chief Registrar of Friendly Societies or any assistant registrar shall become functions of the Certification Officer, that is to say,—
 - (a) the ^{M4}Trade Union Act 1913;
 - (b) the ^{M5}Trade Union (Amalgamations, etc.) Act 1964;
 - (c) the 1974 Act.
- (3) The provisions (so far as applicable) of Parts I and III of Schedule 1 to this Act shall have effect with respect to the Certification Officer.
- (4) The Certification Officer may appoint one or more assistant certification officers and shall appoint an assistant certification officer for Scotland.
- (5) The Certification Officer may delegate to an assistant certification officer such functions as he thinks appropriate and in particular may delegate to the assistant certification officer for Scotland such functions as he thinks appropriate in relation to organisations whose principal office is in Scotland.
- (6) References in any enactment (except in subsections (4) and (5) above, this subsection, Part I and paragraph 28 of Schedule 1 to this Act and the ^{M6}House of Commons Disqualification Act 1975) to the Certification Officer shall be construed as including, in relation to such functions as have been delegated in accordance with subsection (5) above, references to an assistant certification officer.

Marginal Citations

- M4** [1913 c. 30 \(2 & 3 Geo. 5.\)](#)
- M5** [1964 c. 24](#).
- M6** [1975 c. 24](#).

8 Certification as independent trade union.

- (1) A trade union whose name is entered on the list of trade unions maintained under section 8 of the 1974 Act may apply to the Certification Officer for a certificate that it is independent.

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- (2) An application under subsection (1) above shall be made in such form and manner as the Certification Officer may require and shall be accompanied by a fee of [^{F5}£70] or such other fee as may be prescribed by regulations made by the Secretary of State.
- (3) The Certification Officer shall maintain a record showing details of all applications made under subsection (1) above and shall keep it available for public inspection (free of charge) at all reasonable hours.
- (4) If an application is made, or by virtue of subsection (12) below is treated as being made, by a trade union whose name is not entered on the list of trade unions maintained under section 8 of the 1974 Act, the Certification Officer shall refuse a certificate of independence and shall enter that refusal on the record maintained in accordance with subsection (3) above.
- (5) In the case of an application not falling within subsection (4) above, the Certification Officer shall—
 - (a) determine whether the applicant trade union is independent;
 - (b) enter his decision and the date of his decision on the record maintained in accordance with subsection (3) above; and
 - (c) if he determines that the trade union is independent, issue a certificate accordingly, or, if he determines that it is not, give reasons for his decision.
- (6) The Certification Officer shall not make any determination under subsection (5) above whether a trade union is independent until one month after the application has been entered on the record in accordance with subsection (3) above, and before making such a determination he shall make such inquiries as he thinks fit and shall take into account any relevant information submitted to him by any person.
- (7) The Certification Officer may at any time withdraw a certificate, in accordance with subsection (8) below, if he is of the opinion that the trade union in question is no longer independent.
- (8) Where the Certification Officer proposes to withdraw a certificate under subsection (7) above—
 - (a) he shall notify the trade union concerned of the proposal;
 - (b) subsections (3), (5) and (6) above shall apply (with appropriate modifications) to such a proposal as they apply to an application under subsection (1) above; and
 - (c) the Certification Officer shall confirm or withdraw the certificate accordingly.
- (9) A trade union aggrieved by the refusal of the Certification Officer to issue it with a certificate or by a decision of his to withdraw its certificate may appeal, in accordance with [^{F6}section 136(3) of the ^{M7}Employment Protection (Consolidation) Act 1978], to the Employment Appeal Tribunal; and on any such appeal the Tribunal, if satisfied that the certificate should be issued or as the case may be should not be withdrawn, shall declare that fact and give directions to the Certification Officer accordingly.
- (10) Where the name of an organisation is removed from the list of trade unions maintained under section 8 of the 1974 Act, the Certification Officer shall cancel any certificate of independence in force in respect of that organisation by entering on the record the fact that the organisation's name has been removed from the said list and that the certificate is accordingly cancelled.

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- (11) A certificate of independence which is in force, or, as the case may be, a refusal, withdrawal or cancellation of a certificate entered on the record, shall for all purposes be conclusive evidence that the trade union in question is, or, as the case may be, is not, independent; and a document purporting to be such a certificate or a certified copy of such an entry on the record, and to be signed by the Certification Officer or by any person authorised to act on his behalf, shall be taken to be such a certificate or a true copy of such an entry unless the contrary is proved.
- (12) If in any proceedings before any court, the Employment Appeal Tribunal, the Central Arbitration Committee, the Service, or an industrial tribunal a question arises as to whether a trade union is independent and there is no certificate of independence in force and no refusal, withdrawal or cancellation of a certificate recorded in relation to that trade union—
- (a) the question shall not be decided in those proceedings, and those proceedings shall be stayed or, in Scotland, sisted until a certificate has been issued or refused by the Certification Officer; and
 - (b) the body before whom the proceedings are stayed, or sisted, may refer the question as to the independence of the trade union to the Certification Officer who shall proceed in accordance with subsections (3) to (6) above as if the reference were an application by that trade union.

Textual Amendments

F5 Words substituted by [S.I. 1979/1385, reg. 5](#)

F6 Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\), Sch. 16 para. 23\(1\)\(3\)](#)

Modifications etc. (not altering text)

C1 The fee of £225 is prescribed for the purposes of s. 8(2) by [S.I. 1989/205, art. 3](#)

Marginal Citations

M7 [1978 c. 44.](#)

9 Custody of documents.

- (1) The Certification Officer shall take custody of all annual returns, accounts, copies of rules and other documents submitted, for the purposes of the Trade Union Acts 1871 to 1964 or the ^{M8}Industrial Relations Act 1971 or the 1974 Act to the Chief Registrar of Friendly Societies or any assistant registrar, or to the Registrar of Trade Unions and Employers' Associations or any assistant registrar, and which are, on the commencement of this section, in the custody of the Chief Registrar of Friendly Societies or any assistant registrar.
- (2) The Certification Officer shall keep available for public inspection (either free of charge or on payment of a reasonable charge) at all reasonable hours such of the documents referred to in subsection (1) above as are, or were, available for public inspection in pursuance of any of the Acts referred to in that subsection.

Marginal Citations

M8 [1971 c. 72.](#)

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10 Central Arbitration Committee.

- (1) There shall be a body to be known as the Central Arbitration Committee, in this Act referred to as the “Committee”.
- (2) Any reference in any enactment, statutory instrument or other document to the Industrial Arbitration Board (whether by that or any other name) shall be construed as a reference to the Committee.
- (3) The provisions of Part II and (so far as applicable) Parts I and III of Schedule 1 to this Act shall have effect with respect to the Committee.

11— F7
16.

Textual Amendments

F7 Ss. 11–16, 98, Sch. 11 repealed with saving by [Employment Act 1980 \(c. 42\)](#), [Sch. 2](#) and [S.I. 1980/1170, art. 4, Sch. 3](#)

Disclosure of information

17 General duty of employers to disclose information.

- (1) For the purposes of all the stages of such collective bargaining between an employer and representatives of an independent trade union as is referred to in subsection (2) below, it shall be the duty of the employer, subject to section 18 below, to disclose to those representatives on request all such information relating to his undertaking as is in his possession, or that of any associated employer, and is both—
 - (a) information without which the trade union representatives would be to a material extent impeded in carrying on with him such collective bargaining, and
 - (b) information which it would be in accordance with good industrial relations practice that he should disclose to them for the purposes of collective bargaining.
- (2) The collective bargaining for the purposes of which an employer must disclose information under subsection (1) above is collective bargaining about matters, and in relation to descriptions of workers,—
 - (a) in respect of which the trade union is recognised by that employer; . . . F8
 - (b) F8

and in this section and sections 19 to 21 below “representative”, in relation to a trade union, means an official or other person authorised by the trade union to carry on such collective bargaining.
- (3) Where a request for information is made by trade union representatives under this section, the request shall, if the employer so requests, be in writing or be confirmed in writing.
- (4) In determining, for the purposes of subsection (1)(b) above, what would be in accordance with good industrial relations practice, regard shall be had to the relevant

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provisions of any Code of Practice issued by the Service under section 6 above, but not so as to exclude any other evidence of what that practice is.

- (5) Where an employer is required by virtue of this section to disclose any information to trade union representatives, the disclosure of it shall, if they so request, be in writing or be confirmed in writing.

Textual Amendments

F8 Word and s. 17(2)(b) repealed by [Employment Act 1980 \(c. 42\)](#), [Sch. 2](#)

Modifications etc. (not altering text)

C2 [Ss. 17–21, 99–103, 105\(1\)–\(3\)](#) and 106 modified by [S.I. 1989/901](#), [art. 3\(1\)\(2\)](#), [Sch.](#)

18 Restrictions on general duty under s. 17.

- (1) No employer shall, by virtue of section 17 above, be required to disclose—
- (a) any information the disclosure of which would be against the interests of national security, or
 - (b) any information which he could not disclose without contravening a prohibition imposed by or under an enactment, or
 - (c) any information which has been communicated to the employer in confidence, or which the employer has otherwise obtained in consequence of the confidence reposed in him by another person, or
 - (d) any information relating specifically to an individual, unless he has consented to its being disclosed, or
 - (e) any information the disclosure of which would cause substantial injury to the employer's undertaking for reasons other than its effect on collective bargaining, or
 - (f) any information obtained by the employer for the purpose of bringing, prosecuting or defending any legal proceedings;
- and in formulating the provisions of any Code of Practice relating to the disclosure of information, the Service shall have regard to the provisions of this subsection.
- (2) In the performance of his duty under section 17 above an employer shall not be required—
- (a) to produce, or allow inspection of, any document (other than a document prepared for the purpose of conveying or confirming the information) or to make a copy of or extracts from any document, or
 - (b) to compile or assemble any information where the compilation or assembly would involve an amount of work or expenditure out of reasonable proportion to the value of the information in the conduct of collective bargaining.

Modifications etc. (not altering text)

C3 [Ss. 17–21, 99–103, 105\(1\)–\(3\)](#) and 106 modified by [S.I. 1989/901](#), [art. 3\(1\)\(2\)](#), [Sch.](#)

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19 Complaint of failure to disclose information.

- (1) An independent trade union may present to the Central Arbitration Committee, in writing in such form as the Committee may require, a complaint that an employer has failed to disclose to representatives of that trade union information which he was required to disclose to them by section 17 above, or to confirm any such information in writing in accordance with subsection (5) of that section.
- (2) If on receipt of such a complaint the Committee is of the opinion that the complaint is reasonably likely to be settled by conciliation, it shall refer the complaint to the Service and shall notify the trade union and employer accordingly, whereupon the Service shall seek to promote a settlement of the matter.
- (3) If the complaint is not settled or withdrawn and the Service is of the opinion that further attempts at conciliation are unlikely to result in a settlement it shall inform the Committee of its opinion.
- (4) If the complaint is not referred to the Service under subsection (2) above, or, if it is so referred, on the Service informing the Committee of its opinion in accordance with subsection (3) above, the Committee shall proceed to hear and determine the complaint and shall make a declaration stating whether it finds the complaint well-founded, wholly or in part, and stating the reasons for its finding.
- (5) On the hearing of a complaint under this section any person who the Committee considers has a proper interest in the complaint shall be entitled to be heard by the Committee, but a failure to accord a hearing to a person other than the trade union and employer directly concerned shall not affect the validity of any decision of the Committee in those proceedings.
- (6) If the Committee finds the complaint wholly or partly well-founded, the declaration shall specify—
 - (a) the information in respect of which the Committee finds that the complaint is well founded;
 - (b) the date (or, if more than one, the earliest date) on which the employer refused or failed to disclose, or, as the case may be, to confirm in writing, any of the information specified under paragraph (a) above; and
 - (c) a period (not being less than one week from the date of the declaration) within which the employer ought to disclose, or, as the case may be, to confirm in writing, the information specified under paragraph (a) above.
- (7) On a hearing of a complaint under this section a certificate signed by or on behalf of a Minister of the Crown and certifying that a particular request for information could not be complied with except by disclosing information the disclosure of which would have been against the interests of national security shall be conclusive evidence of that fact; and a document which purports to be such a certificate shall be taken to be such a certificate unless the contrary is proved.

Modifications etc. (not altering text)

C4 Ss. 17–21, 99–103, 105(1)–(3) and 106 modified by S.I. 1989/901, art. 3(1)(2), **Sch.**

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20 Further complaint arising from failure to disclose information.

- (1) At any time after the expiration of the period specified in a declaration under section 19(6)(c) above the trade union may present to the Committee, in writing in such form as the Committee may require, a complaint (hereafter in this section and section 21 below referred to as a “further complaint”) that the employer has failed to disclose, or, as the case may be, to confirm in writing, to representatives of that union information specified in the declaration under section 19(6)(a) above.
- (2) On receipt of a further complaint the Committee shall proceed to hear and determine the complaint and shall make a declaration stating whether it finds the complaint well-founded, wholly or in part, and stating the reasons for its finding.
- (3) On the hearing of a further complaint under this section any person who the Committee considers has a proper interest in the complaint shall be entitled to be heard by the Committee, but a failure to accord a hearing to a person other than the trade union and employer directly concerned shall not affect the validity of any decision of the Committee in those proceedings.
- (4) If the Committee finds the further complaint wholly or partly well-founded the declaration shall specify the information in respect of which the Committee finds that the complaint is well-founded.

Modifications etc. (not altering text)

C5 Ss. 17–21, 99–103, 105(1)–(3) and 106 modified by S.I. 1989/901, art. 3(1)(2), **Sch.**

21 Determination of claim and award.

- (1) On or after presenting a further complaint under section 20 above, the trade union may present to the Committee, in writing, a claim in respect of one or more descriptions of employees (but not workers who are not employees) specified in the claim that their contracts should include the terms and conditions specified in the claim.
- (2) The right to present a claim under subsection (1) above shall expire, or, as the case may be, a claim so presented shall be treated as withdrawn, if at any time before the Committee makes an award under this section the employer discloses, or, as the case may be, confirms in writing, to representatives of the trade union the information specified in the declaration under section 19(6)(a) or, as the case may be, section 20(4) above.
- (3) If the Committee finds, or has found, the further complaint wholly or partly well-founded, it may, after hearing the parties, make an award that in respect of any description of employees specified in the claim the employer shall, from a specified date, observe either—
 - (a) the terms and conditions specified in the claim; or
 - (b) other terms and conditions which the Committee considers appropriate.
- (4) The date specified in an award under subsection (3) above may be a date earlier than that on which the award is made but shall not be earlier than the date specified in accordance with section 19(6)(b) above in the declaration made by the Committee on the original complaint.

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- (5) An award under subsection (3) above shall be made only in respect of a description of employees, and shall comprise only terms and conditions relating to matters,—
 - (a) in respect of which the trade union making the claim is recognised by the employer; . . . ^{F9}
 - (b) ^{F9}
- (6) Any terms and conditions which by an award under this section the employer is required to observe in respect of employees of his shall have effect as part of the contract of employment of any such employee, as from the date specified in the award, except in so far as they are superseded or varied—
 - (a) by a subsequent award under this section;
 - (b) by a collective agreement between the employer and the union for the time being representing that employee; or
 - (c) by express or implied agreement between the employee and the employer so far as that agreement effects an improvement in any terms and conditions having effect by virtue of the award.
- (7) Where—
 - (a) by virtue of any enactment, other than one contained in this section, providing for minimum remuneration or terms and conditions, a contract of employment is to have effect as modified by an award, order or other instrument under that enactment; and
 - (b) by virtue of an award under this section any terms and conditions are to have effect as part of that contract,
 that contract shall have effect in accordance with that award, order or other instrument or in accordance with the award under this section, whichever is the more favourable, in respect of any terms and conditions of that contract, to the employee.
- (8) No award shall be made under this section in respect of any terms and conditions of employment which are fixed by virtue of any enactment.

Textual Amendments
F9 Word and s. 21(5)(b) repealed by [Employment Act 1980 \(c. 42\)](#), [Sch. 2](#)

Modifications etc. (not altering text)
C6 Ss. 17–21, 99–103, 105(1)–(3) and 106 modified by [S.I. 1989/901](#), [art. 3\(1\)\(2\)](#), [Sch.](#)

PART II

22— ^{F10}
39.

Textual Amendments
F10 Ss. 22–39, 41–88, 108(2)–(8), 109, 112, 119(2)(8)–(11), 120, 121(8), 122(3), 124(2)–(4), 126(3)(5), 128(2), 129(2), [Schs. 2–6](#), [Sch. 12 Pt. II paras. 8–12](#), [Sch. 16 Pts. I,II](#), [Pt. III paras. 8, 10, 11](#) ,13–

Status: Point in time view as at 04/03/1991.

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16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17 repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

40		
(1)	.....	F11
(2)	.....	F12
(3)	.....	F13
(4)	.....	F12
(5)	.....	F11

Textual Amendments

- F11** S. 40(1)(5)(6) repealed by [Employment Act 1990 \(c. 38, SIF 43:5\)](#), s. 16(2), [Sch. 3](#)
- F12** S. 40(2)(4) repealed by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), s. 86(2), [Sch. 11](#) (with saving in [S.I. 1987/406](#), [reg. 2\(3\)\(b\)](#))
- F13** S.40 (3) repealed by [Social Security \(Miscellaneous Provisions\) Act 1977 \(c. 5\)](#), [Sch. 2](#)

41—88	F14
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Textual Amendments

- F14** Ss. 22–39, 41–88, 108(2)–(8), 109, 112, 119(2)(8)–(11), 120, 121(8), 122(3), 124(2)–(4), 126(3)(5), 128(2), 129(2), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17 repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

PART III

89—	.....	F15
96.		

Textual Amendments

- F15** Ss. 89–96, Schs. 7, 8, Sch. 17 para. 11 repealed by [Wages Councils Act 1979 \(c. 12\)](#), Schs 5, 7

Powers of Agricultural Wages Boards

97 Amendments of Agricultural Wages Acts.

- (1) For section 3 of the ^{M9} Agricultural Wages Act 1948 (power to fix remuneration and holidays) there shall be substituted the section set out in Part 1 of Schedule 9 to this Act (which reproduces section 3 with amendments enabling the Agricultural Wages Board to fix other terms and conditions of employment as well as remuneration and holidays and to specify the date from which remuneration fixed by them is to be payable).

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- (2) The other provision of that Act shall have effect subject to the amendments set out in Part II of Schedule 9 to this Act, being minor and consequential amendments.
- (3) For section 3 of the ^{M10} Agricultural Wages (Scotland) Act 1949 (power to fix remuneration and holidays) there shall be substituted the section set out in Part 1 of Schedule 10 to this Act (which reproduces section 3 with amendments enabling the Scottish Agricultural Wages Board to fix other terms and conditions of employment as well as remuneration fixed by them is to be payable).
- (4) The other provisions of the said Act of 1949 shall have effect subject to the amendments set out in Part II of Schedule 10 to this Act, being minor and consequential amendments.

Modifications etc. (not altering text)

C7 The text of ss. 97(3)(4), 111(1), 114–116, 125(3), Sch. 10 Pt.I, Pt.II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1)(2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt.IV paras. 2(1)–(4), 3(1)(2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M9 1948 c. 47.

M10 1949 c. 30

98 ^{F16}

Textual Amendments

F16 Ss. 11–16, 98, Sch. 11 repealed with saving by [Employment Act 1980 \(c. 42\)](#), [Sch. 2](#) and [S.I. 1980/1170, art. 4, Sch. 3](#)

PART IV

PROCEDURE FOR HANDLING REDUNDANCIES

Modifications etc. (not altering text)

C8 Pt. IV (ss. 99–107) modified by [S.I. 1981/1794, reg. 11\(7\)\(a\)](#)

99 **Duty of employer to consult trade union representatives on redundancy.**

- (1) An employer proposing to dismiss as redundant an employee of a description in respect of which an independent trade union is recognised by him shall consult representatives of that trade union about the dismissal in accordance with the following provisions of this section.

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- (2) In this section and sections 100 and 101 below, “trade union representative” in relation to a trade union means an official or other person authorised to carry on collective bargaining with the employer in question by that trade union.
- (3) The consultation required by this section shall begin at the earliest opportunity, and shall in any event begin—
 - (a) where the employer is proposing to dismiss as redundant 100 or more employees at one establishment within a period of 90 days or less, at least 90 days before the first of those dismissals takes effect; or
 - (b) where the employer is proposing to dismiss as redundant 10 or more employees at one establishment within a period of 30 days or less, [^{F17}at least 30 days] before the first of those dismissals takes effect.
- (4) In determining for the purpose of subsection (3) above whether an employer is proposing to dismiss as redundant 100 or more, or, as the case may be, 10 or more, employees within the periods mentioned in that subsection, no account shall be taken of employees whom he proposes to dismiss as redundant in respect of whose proposed dismissals consultation has already begun.
- (5) For the purposes of the consultation required by this section the employer shall disclose in writing to trade union representatives—
 - (a) the reasons for his proposals;
 - (b) the numbers and descriptions of employees whom it is proposed to dismiss as redundant;
 - (c) the total number of employees of any such description employed by the employer at the establishment in question;
 - (d) the proposed method of selecting the employees who may be dismissed; and
 - (e) the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect.
- (6) The information which is to be given to trade union representatives under this section shall be delivered to them, or sent by post to an address notified by them to the employer, or sent by post to the union at the address of its head or main office.
- (7) In the course of the consultation required by this section the employer shall—
 - (a) consider any representations made by the trade union representatives; and
 - (b) reply to those representations and, if he rejects any of those representations, state his reasons.
- (8) If in any case there are special circumstances which render it not reasonably practicable for the employer to comply with any of the requirements of subsections (3), (5) or (7) above, the employer shall take all such steps towards compliance with that requirement as are reasonably practicable in those circumstances.
- (9) This section shall not be construed as conferring any rights on a trade union or an employee except as provided by sections 101 to 103 below.

Textual Amendments

F17 Words substituted by [S.I. 1979/958](#), [arts. 2\(a\), 3](#)

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Modifications etc. (not altering text)

C9 Ss. 17–21, 99–103, 105(1)–(3) and 106 modified by S.I. 1989/901, art. 3(1)(2), **Sch.**

C10 Pt. IV (ss. 99–107) modified by S.I. 1981/1794, **reg. 11(7)(a)**

100 Duty of employer to notify Secretary of State of certain redundancies.

- (1) An employer proposing to dismiss as redundant—
- (a) 100 or more employees at one establishment within a period of 90 days or less; or
 - (b) 10 or more employees at one establishment within a period of 30 days or less, shall notify the Secretary of State, in writing, of his proposal—
 - (i) in a case falling within paragraph (a) above, at least 90 days before the first of those dismissals takes effect; and
 - (ii) in a case falling within paragraph (b) above, [^{F18}at least 30 days] before the first of those dismissals takes effect,
 and where the notice relates to employees of any description in respect of which an independent trade union is recognised by him, he shall give a copy of the notice to representatives of that union.
- (2) In determining for the purpose of subsection (1) above whether an employer is proposing to dismiss as redundant 100 or more, or, as the case may be, 10 or more, employees within the periods mentioned in that subsection, no account shall be taken of employees whom he proposes to dismiss as redundant in respect of whose proposed dismissals notice has already been given to the Secretary of State.
- (3) A notice under this section shall—
- (a) be given to the Secretary of State by delivery to him or by sending it by post to him, at such address as the Secretary of State may direct in relation to the establishment where the employees proposed to be dismissed are employed;
 - (b) in a case where consultation with trade union representatives is required by section 90 above, identify the trade union concerned and state the date when consultation began; and
 - (c) be in such form and contain such particulars, in addition to those required by paragraph (b) above, as the Secretary of State may direct.
- (4) The copy of the notice under this section which is to be given to trade union representatives shall be delivered to them, or sent by post to an address notified by them to the employer, or sent by post to the union at the address of its head or main office.
- (5) At any time after receiving a notice under this section from an employer the Secretary of State may by written notice require the employer to give him such further information as may be specified in the requirement.
- (6) If in any case there are special circumstances rendering it not reasonably practicable for the employer to comply with any of the requirements of subsections (1) to (5) above, he shall take all such steps towards compliance with that requirement as are reasonably practicable in those circumstances.

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Textual Amendments

F18 Words substituted by S.I. 1979/958, arts. 2(b), 3

Modifications etc. (not altering text)

C11 S. 100 restricted (prosp.) by Dock Work Regulation Act 1976 (c. 79), ss. 14(6), 17(1)

C12 Ss. 17–21, 99–103, 105(1)–(3) and 106 modified by S.I. 1989/901, art. 3(1)(2), Sch.

C13 Pt. IV (ss. 99–107) modified by S.I. 1981/1794, reg. 11(7)(a)

101 Complaint by trade union and protective award.

- (1) An appropriate trade union may present a complaint to an industrial tribunal on the ground that an employer has dismissed as redundant or is proposing to dismiss as redundant one or more employees and has not complied with any of the requirements of section 99 above.
- (2) If on a complaint under this section a question arises as to the matters referred to in section 99(8) above, it shall be for the employer to show—
 - (a) that there were special circumstances which rendered it not reasonably practicable for him to comply with any requirement of section 99 above; and
 - (b) that he took all such steps towards compliance with that requirement as were reasonably practicable in those circumstances.
- (3) Where the tribunal finds a complaint under subsection (1) above well-founded it shall make a declaration to that effect and may also make a protective award in accordance with subsection (4) below.
- (4) A protective award is an award that in respect of such descriptions of employees as may be specified in the award, being employees who have been dismissed, or whom it is proposed to dismiss, as redundant, and in respect of whose dismissal or proposed dismissal the employer has failed to comply with any requirement of section 99 above, the employer shall pay remuneration for a protected period.
- (5) The protected period under an award under subsection (4) above shall be a period beginning with the date on which the first of the dismissals to which the complaint relates takes effect, or the date of the award, whichever is the earlier, of such length as the tribunal shall determine to be just and equitable in all the circumstances having regard to the seriousness of the employer's default in complying with any requirement of section 99 above, not exceeding—
 - (a) in a case falling within section 99(3)(a) above, 90 days;
 - (b) in a case falling within section 99(3)(b) above, [^{F19}30 days]; or
 - (c) in any other case, 28 days.
- (6) An industrial tribunal shall not consider a complaint under subsection (1) above in respect of an employer's default in relation to a dismissal or proposed dismissal unless it is presented to the tribunal before the proposed dismissal takes effect or before the end of the period of three months beginning with the date on which the dismissal takes effect or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

Status: Point in time view as at 04/03/1991.

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- (7) “Appropriate trade union”, in relation to an employee of any description, means an independent trade union recognised by his employer in respect of that description of employee.

Textual Amendments

F19 Words substituted by [S.I. 1979/958](#), [art. 2\(c\)](#)

Modifications etc. (not altering text)

C14 [Ss. 17–21, 99–103, 105\(1\)–\(3\)](#) and [106](#) modified by [S.I. 1989/901](#), [art. 3\(1\)\(2\)](#), [Sch.](#)

C15 [Pt. IV](#) (ss. 99–107) modified by [S.I. 1981/1794](#), [reg. 11\(7\)\(a\)](#)

102 Entitlement under protective award.

- (1) Where an industrial tribunal has made a protective award under section 101 above, every employee of a description to which the award relates shall be entitled, subject to the following provisions of this section, to be paid remuneration by his employer for the protected period specified in the award.
- (2) The rate of remuneration payable under a protective award shall be a week’s pay for each week of the protected period, and if remuneration falls to be calculated for a period less than one week the amount of a week’s pay shall be reduced proportionately.
- (3) Any payment made to an employee by an employer under his contract of employment, or by way of damages for breach of that contract, in respect of a period falling within a protected period, shall go towards discharging the employer’s liability to pay remuneration under the protective award in respect of that first mentioned period, and conversely any payment of remuneration under a protective award in respect of any period shall go towards discharging any liability of the employer under, or in respect of breach of, the contract of employment in respect of that period.
- (4) In respect of a period during which he is employed by the employer an employee shall not be entitled to remuneration under a protective award unless he would be entitled to be paid by the employer in respect of that period, either by virtue of his contract of employment or by virtue of ^{F20}Schedule 3 to the ^{M11}Employment Protection (Consolidation) Act 1978] (rights of employee in period of notice), if that period fell within the period of notice required to be given by ^{F20}section 49(1)] of that Act.
- (5) Where the employee is employed by the employer during the protected period and—
- he is fairly dismissed by his employer for a reason other than redundancy; or
 - he unreasonably terminates the contract of employment,
- then, subject to the following provisions of this section, he shall not be entitled to remuneration under the protective award in respect of any period during which but for that dismissal or termination he would have been employed.
- (6) If an employer makes an employee an offer (whether in writing or not and whether before or after the ending of his employment under the previous contract) to renew his contract of employment, or to re-engage him under a new contract, so that the renewal or re-engagement would take effect before or during the protected period and either—
- the provisions of the contract as renewed, or of the new contract, as to the capacity and place in which he would be employed, and as to the other terms

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and conditions of his employment, would not differ from the corresponding provisions of the previous contract; or

- (b) the first mentioned provisions would differ from those corresponding provisions, but the offer constitutes an offer of suitable employment in relation to the employee;

the provisions of subsections (7) to (11) below shall effect.

- (7) If, in a case to which subsection (6) above applies, the employee unreasonably refuses that offer, then, he shall not be entitled to any remuneration under a protective award in respect of any period during which but for that refusal he would have been employed.

- (8) If an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment, in pursuance of such an offer as is referred to in subsection (6) (b) above, there shall be a trial period in relation to the contract as renewed, or the new contract (whether or not there has been a previous trial period under this section).

- (9) The trial period shall begin with the ending of the employee's employment under the previous contract and end with the expiration of the period of four weeks beginning with the date on which the employee starts work under the contract as renewed, or the new contract, or such longer period as may be agreed in accordance with subsection (10) below for the purpose of retraining the employee for employment under that contract.

- (10) Any such agreement shall—

- (a) be made between the employer and the employee or his representative before the employee starts work under the contract as renewed or, as the case may be, the new contract;
- (b) be in writing;
- (c) specify the date of the end of the trial period; and
- (d) specify the terms and conditions of employment which will apply in the employee's case after the end of that period.

- (11) If during the trial period—

- (a) the employee, for whatever reason, terminates the contract, or gives notice to terminate it and the contract is thereafter, in consequence, terminated; or
- (b) the employer, for a reason connected with or arising out of the change to the renewed, or new, employment, terminates the contract, or gives notice to terminate it and the contract is thereafter, in consequence, terminated,

then, the employee shall remain entitled under the protective award unless, in a case falling within paragraph (a) above, he acted unreasonably in terminating or giving notice to terminate the contract.

Textual Amendments

F20 Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16 para. 23\(1\)\(4\)](#)

Modifications etc. (not altering text)

C16 [Ss. 17–21, 99–103, 105\(1\)–\(3\)](#) and [106](#) modified by [S.I. 1989/901](#), [art. 3\(1\)\(2\)](#), [Sch.](#)

C17 [Pt. IV \(ss. 99–107\)](#) modified by [S.I. 1981/1794](#), [reg. 11\(7\)\(a\)](#)

Marginal Citations

M11 [1978 c. 44](#).

Status: Point in time view as at 04/03/1991.

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103 Complaint by employee to industrial tribunal.

- (1) An employee may present a complaint to an industrial tribunal on the ground that he is an employee of a description to which a protective award relates and that his employer has failed, wholly or in part, to pay him remuneration under that award.
- (2) An industrial tribunal shall not entertain a complaint under subsection (1) above unless it is presented to the tribunal before the end of the period of three months beginning with the day (or, if the complaint relates to more than one day, the last of the days) in respect of which the complaint is made of failure to pay remuneration, or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.
- (3) Where the tribunal finds a complaint under subsection (1) above well-founded it shall order the employer to pay the complainant the amount of remuneration which it finds is due to him.

Modifications etc. (not altering text)

C18 Ss. 17–21, 99–103, 105(1)–(3) and 106 modified by S.I. 1989/901, art. 3(1)(2), **Sch.**

C19 Pt. IV (ss. 99–107) modified by S.I. 1981/1794, **reg. 11(7)(a)**

104 ^{F21}

Textual Amendments

F21 Ss. 104, 105(4)(5) repealed by Wages Act 1986 (c. 48, SIF 43:2), s. 32(2), **Sch. 5 Pt. I**

105 Offence and proceedings.

- (1) If an employer fails to give notice to the Secretary of State in accordance with section 100 above, he shall be liable on summary conviction to a fine not exceeding [^{F22}level 5 on the standard scale]
- (2) Proceedings in England or Wales for an offence under subsection (1) above shall be instituted only by or with the consent of the Secretary of State or by an officer authorised for that purpose by special or general directions of the Secretary of State.
- (3) An officer so authorised may, although not of counsel or a solicitor, prosecute or conduct before a magistrates' court any proceedings for such an offence.
- (4) ^{F23}

Textual Amendments

F22 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G**

F23 Ss. 104, 105(4)(5) repealed by Wages Act 1986 (c. 48, SIF 43:2), s. 32(2), **Sch. 5 Pt. I**

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Modifications etc. (not altering text)

C20 Pt. IV (ss. 99–107) modified by S.I. 1981/1794, **reg. 11(7)(a)**

C21 Ss. 17–21, 99–103, 105(1)–(3) and 106 modified by S.I. 1989/901, art. 3(1)(2), **Sch.**

106 Supplementary.

- (1) ^{F24}
- (2) For the purposes of any proceedings under this Part of this Act, the dismissal or proposed dismissal of an employee shall be presumed, unless the contrary is proved, to be by reason of redundancy.
- (3) [^{F25}Schedule 14 to the ^{M12}Employment Protection (Consolidation) Act 1978 shall apply for the calculation of a week's pay for the purposes of section 102 above, and, for the purposes of Part II of that Schedule, the calculation date is—
- (a) in the case of an employee who was dismissed before the date on which the protective award was made, the date which by virtue of paragraph 7(1)(k) or (l) of the said Schedule 14] is the calculation date for the purpose of computing the amount of a redundancy payment in relation to that dismissal (whether or not the employee concerned is entitled to any such payment); and
 - (b) in any other case, the date on which the protective award was made.
- (4) The Secretary of State may by order vary the provisions of sections 99(3) and 100(1) above and the periods referred to in section 101(5)(a) to (c) above and may vary those provisions or periods either generally or in their application to any description of employees, but no such order shall be made which has the effect of reducing to less than 30 days the periods referred to in sections 99(3) and 100(1) as the periods which must elapse before the first of the dismissals takes effect.
- (5) No order shall be made under subsection (4) above unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

Textual Amendments

F24 Ss. 106(1), Sch. 16 Pt. III paras. 4, 17, Sch. 17 para. 13 repealed by Employment Act 1980 (c. 42), **Sch. 2**

F25 Words substituted by Employment Protection (Consolidation) Act 1978 (c. 44), **Sch. 16 para. 23(1)(6)**

Modifications etc. (not altering text)

C22 Ss. 17–21, 99–103, 105(1)–(3) and 106 modified by S.I. 1989/901, art. 3(1)(2), **Sch.**

C23 Pt. IV (ss. 99–107) modified by S.I. 1981/1794, **reg. 11(7)(a)**

Marginal Citations

M12 1978 c. 44.

107 Power to adapt foregoing provisions in case of collective agreements on redundancies.

- (1) If at any time there is in force a collective agreement which establishes—

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- (a) arrangements for providing alternative employment for employees to whom the agreement relates if they are dismissed as redundant by an employer to whom it relates; or
- (b) arrangements for the handling of redundancies;

and on the application of all the parties to the agreement the Secretary of State, having regard to the provisions of the agreement, is satisfied that the arrangements are on the whole at least as favourable to those employees as the foregoing provisions of this Part of this Act, he may make an order under this section adapting, modifying or excluding any of those provisions both in their application to all or any of those employees and in their application to any other employees of any such employer.

- (2) The Secretary of State shall not make an order under this section in respect of an agreement unless—
 - (a) the agreement provides for procedures to be followed (whether by arbitration or otherwise) in cases where an employee to whom the agreement relates claims that any employer or other person to whom it relates has not complied with the provisions of the agreement, and that those procedures include a right to arbitration or adjudication by an independent referee or body in cases where (by reason of an equality of votes or otherwise) a decision cannot otherwise be reached; or
 - (b) the agreement indicates that any such employee may present a complaint to an industrial tribunal that any such employer or other person has not complied with those provisions.
- (3) An order under this section may confer on an industrial tribunal to whom a complaint is presented as mentioned in subsection (2)(b) above such powers and duties as the Secretary of State considers appropriate.
- (4) Without prejudice to section 123 below, an order under this section may be varied or revoked by a subsequent order thereunder, whether in pursuance of an application made by all or any of the parties to the agreement in question or without any such application.

Modifications etc. (not altering text)
C24 Pt. IV (ss. 99–107) modified by S.I. 1981/1794, reg. 11(7)(a)

PART V

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

108 General provisions as to industrial tribunals and conciliation officers.

- (1) The remedy of an employee for infringement of any of the rights conferred on him by any provision of this Act shall, if provision is made for a complaint or for the reference of a question to an industrial tribunal, be by way of such complaint or reference in accordance with the relevant provisions of this Act and with tribunal regulations made under ^{F26}paragraph 1 of Schedule 9 to the ^{M13}Employment Protection (Consolidation) Act 1978], and not otherwise.

- (2) ^{F27}

Status: Point in time view as at 04/03/1991.

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Textual Amendments

- F26** Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16 para. 23\(1\)\(7\)](#)
- F27** [Ss. 22–39, 41–88, 108\(2\)–\(8\), 109, 112, 119\(2\)\(8\)–\(11\), 120, 121\(8\), 122\(3\), 124\(2\)–\(4\), 126\(3\)\(5\), 128\(2\), 129\(2\), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17](#) repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

Marginal Citations

- M13** [1978 c. 44.](#)

109 **F28**

Textual Amendments

- F28** [Ss. 22–39, 41–88, 108\(2\)–\(8\), 109, 112, 119\(2\)\(8\)–\(11\), 120, 121\(8\), 122\(3\), 124\(2\)–\(4\), 126\(3\)\(5\), 128\(2\), 129\(2\), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17](#) repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

110 Death of employee or employer.

The provisions of Schedule 12 to this Act shall have effect in relation to the death of an employee or employer.

111 Disentitlement to unemployment benefit and supplementary benefit during trade dispute.

- (1) In section 19(1) of the ^{M14} of the Social Security Act 1975 (disqualification for unemployment benefit where stoppage of work due to trade dispute)—
 - (a) in paragraph (a) the words “or financing” and the word “and”, and
 - (b) paragraph (b),

are hereby repealed.

(2) **F29**

Textual Amendments

- F29** [S. 111\(2\)](#) repealed by [Supplementary Benefits Act 1976 \(c. 71\)](#), [s. 35\(3\)](#), [Sch. 8 Pt. II](#)

Modifications etc. (not altering text)

- C25** The text of [ss. 97\(1\)–\(4\), 111\(1\), 114–116, 125\(3\), Sch. 9 Pt. I, Pt. II paras. 2\(1\)–4\(3\), 6, Sch. 10 Pt.I, Pt.II paras. 2\(1\)–4\(3\), 6, Sch. 13 paras. 1, 2, 3\(1\)–\(3\), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15\(1\)\(2\), 16\(1\)–\(4\), 17, 18\(1\)\(2\), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt.IV paras. 2\(1\)–\(4\), 3\(1\)\(2\)\(4\), 4\(1\)–\(5\), 6, 7\(a\)\(b\), 9\(1\)–\(4\), 10\(1\)–\(3\), 12\(1\)–\(3\), 13\(1\), 17, 18\(1\)–\(3\), Sch. 18](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Marginal Citations

M14 [1975 c.14](#)

112 F30

Textual Amendments

F30 Ss. 22–39, 41–88, 108(2)–(8), 109, 112, 119(2)(8)–(11), 120, 121(8), 122(3), 124(2)–(4), 126(3)(5), 128(2), 129(2), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17 repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

113 F31

Textual Amendments

F31 [S. 113](#) repealed by [Social Security \(Miscellaneous Provisions\) Act 1977 \(c. 5\)](#), s. 24(6), [Sch. 2](#)

114 Amendments of the Employment Agencies Act 1973.

The ^{M15} Employment Agencies Act 1973 shall have effect subject to the amendments which transfer the licensing functions under that Act from local authorities to the Secretary of State.

Modifications etc. (not altering text)

C26 The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1)(2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt. IV paras. 2(1)–(4), 3(1)(2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M15 [1973 c.35](#)

115 Amendments of the Employment and Training Act 1973.

The ^{M16} Employment and Training Act 1973 shall have effect subject to the amendments specified in Schedule 14 to this Act, being amendments which provide for the status of the bodies established under section 1(1) of that Act and enlarge the powers of the Secretary of State to make arrangements for the purpose of providing or obtaining employment.

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Modifications etc. (not altering text)

C27 The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1)(2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt. IV paras. 2(1)–(4), 3(1)(2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M16 [1973 c.50](#)

116 Amendments of the Health and Safety at work etc. Act 1974.

The ^{M17} Health and Safety at Work etc. Act 1974 shall have effect subject to the amendments which restrict the appointment of safety representatives to those appointed by recognised trade unions, remove the special provisions relating to health and safety at work in agriculture and enable certain statements to be given notwithstanding the restrictions on disclosure of information obtained under that Act.

Modifications etc. (not altering text)

C28 The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1)(2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt. IV paras. 2(1)–(4), 3(1)(2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M17 [1974 c.37](#)

117 Offences by bodies corporate.

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

118 Restrictions on contracting out.

- (1) Except as provided by subsection (2) below, any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—
 - (a) to exclude or limit the operation of any provision of this Act; or

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- (b) to preclude any person from presenting a complaint to, or bringing any proceedings under this Act before, an industrial tribunal, or for making any reference, claim, complaint or application under this Act to the Service or the Committee.
- (2) Subsection (1) above shall not apply—
 - (a) to any provision in a collective agreement excluding rights under . . . ^{F32} Part IV of this Act, if an order under . . . ^{F32} section 107 above is for the time being in force in respect of it;
 - (b) ^{F33}
 - (d) to any agreement such as is referred to in section . . . ^{F34} 21(6)(b) or (c) above, . . . ^{F34} to the extent that it varies or supersedes an award under section . . . ^{F34} 21 above, . . . ^{F34}

Textual Amendments

F32 Words repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

F33 [S. 118\(2\)\(b\)\(c\)](#) repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

F34 Word repealed by [Employment Act 1980 \(c. 42\)](#), [Sch. 2](#)

119 Excluded classes of employment.

- (1) Subject to the following provisions of this section, [^{F35}Part IV of this Act applies]to every employment.
- (2) ^{F36}
- (3) ^{F37}
- (4) The following provisions of this Act do not apply to employment as master or as a member of the crew of a fishing vessel, where the employee is not remunerated otherwise than by a share in the profits or gross earnings of the vessel, that is to say, sections . . . ^{F38} 99 and 100.
- (5) The following provisions of this Act do not apply to employment where under his contract of employment the employee ordinarily works outside Great Britain, that is to say, sections . . . ^{F38} 99 and 100.
- (6) For the purposes of subsection (5) above, a person employed to work on board a ship registered in the United Kingdom (not being a ship registered at a port outside Great Britain) shall, unless—
 - (a) the employment is wholly outside Great Britain or
 - (b) he is not ordinarily resident in Great Britain,
 be regarded as a person who under his contract ordinarily works in Great Britain.
- (7) The following provisions of this Act do not apply to employment under a contract for a fixed term of [^{F39}three months] or less or to employment under a contract made in contemplation of the performance of a specific task which is not expected to last for more than [^{F39}three months], unless in either case the employee has been continuously employed for a period of more than [^{F39}three months], that is to say, sections . . . ^{F38} 99 and 100.

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[^{F40}Section 151 of and Schedule 13 to the ^{M18}1978 Employment Protection (Consolidation) Act (computation of period of continuous employment), and any provision modifying or supplementing that section or Schedule for the purposes of that Act, shall apply for the purposes of this subsection as if this subsection were contained in that Act.]

- (8) ^{F36}
- (12) The following provisions of this Act do not apply to employment as a merchant seaman, that is to say, sections . . . ^{F38} 99 and 100.
- (13) Subject to subsection (14) below, employment as a merchant seaman does not include employment in the fishing industry or employment on board a ship otherwise than by the owner, manager or charterer of that ship except employment as a radio officer but save as aforesaid includes employment as master or a member of the crew of any ship, as an apprentice to the sea service, and as a trainee undergoing training for the sea service, and employment in or about a ship in port by the owner, manager or charterer of the ship to do work of the kind ordinarily done by a merchant seaman on such a ship while it is in port.
- (14) For the purposes of subsection (12) above as it applies in relation to sections 99 and 100, employment as a merchant seaman means employment as master or as a member of the crew of a sea-going ship, including an apprentice or trainee employed on any such ship and employment as a radio officer on such a ship.
- (15) The Secretary of State may by order—
- (a) provide that any enactment contained in this Act which is specified in the order shall not apply to persons or to employments of such classes as may be prescribed by the order, or shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so prescribed;
- (b) vary or revoke any of the provisions of subsections (1) to (14) of this section.
- (16) No order under subsection (15) above shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (17) ^{F41}

Textual Amendments

- F35** Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16 para. 23\(1\)\(8\)](#)
- F36** [Ss. 22–39, 41–88, 108\(2\)–\(8\), 109, 112, 119\(2\)\(8\)–\(11\), 120, 121\(8\), 122\(3\), 124\(2\)–\(4\), 126\(3\)\(5\), 128\(2\), 129\(2\), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11 ,13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17](#) repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)
- F37** [S. 119\(3\)](#) repealed by [Dock Work Act 1989 \(c. 13, SIF 43:1\)](#), s. 7(1), [Sch. 1 Pt. I](#)
- F38** Figures repealed by [Employment Protection\(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)
- F39** Words substituted (with saving) by [Employment Act 1982 \(c. 46, SIF 43:5\)](#), s. 2, [Sch. 2 para. 6\(1\)](#)
- F40** Words inserted by [Employment Act 1982 \(c. 46, SIF 43:5\)](#), s. 20, [Sch. 2 para. 6\(1\)](#)
- F41** [S. 119\(17\)](#) repealed by [Employment Act 1982 \(c. 46, SIF 43:5\)](#), s. 21(3), [Sch. 4](#)

Modifications etc. (not altering text)

- C29** [S. 119](#) modified by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), s. 47(1), [Sch. 13 para. 8\(4\)](#)

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Marginal Citations

M18 1978 c.44 (43:1).

120 ^{F42}

Textual Amendments

F42 Ss. 22–39, 41–88, 108(2)–(8), 109, 112, 119(2)(8)–(11), 120, 121(8), 122(3), 124(2)–(4), 126(3)(5), 128(2), 129(2), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17 repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

121 Application to Crown.

- (1) Subject to the following provisions of this section, the provisions of this Act (except sections . . . ^{F43} 20, 21 . . . ^{F44} 90 to 96 and [^{F45}99 to] 107) shall have effect in relation to Crown employment and to persons in Crown employment as they have effect in relation to other employment and to other employees.
- (2) In this section, subject to subsections (3) to (5) below, “Crown employment” means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by any enactment.
- (3) This section does not apply to service as a member of the naval, military or air forces of the Crown, . . . , but does apply to employment by any association established for the purposes of the ^{M19}Auxiliary Forces Act 1953.
- (4) For the purposes of this section, Crown employment does not include any employment in respect of which there is in force a certificate issued by or on behalf of a Minister of the Crown certifying that employment of a description specified in the certificate, or the employment of a particular person so specified, is (or, at a time specified in the certificate, was) required to be excepted from this section for the purpose of safeguarding national security; and any document purporting to be a certificate so issued shall be received in evidence and shall, unless the contrary is proved, be deemed to be such a certificate.
- (5) For the purposes of this Act (except sections . . . ^{F44} 90 to 96 and 105), none of the bodies referred to in [^{F46}Schedule 5 to the ^{M20}Employment Protection (Consolidation) Act 1978] (national health service employers) shall be regarded as performing functions on behalf of the Crown, and accordingly employment by any such body shall not be Crown employment within the meaning of this section.
- (6) For the purposes of the application of the provisions of this Act in relation to employment by any such body as is referred to in subsection (5) above, any reference to redundancy shall be construed as a reference to the existence of such circumstances as, in accordance with any arrangements for the time being in force as mentioned in [^{F47}Section 111(3) of the ^{M21}Employment Protection (Consolidation) Act 1978], are treated as equivalent to redundancy in relation to such employment.
- (7) For the purposes of the application of the provisions of this Act in relation to Crown employment in accordance with subsection (1) above—

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- (a) any reference to an employee shall be construed as a reference to a person in Crown employment;
- (b) any reference to a contract of employment shall be construed as a reference to the terms of employment of a person in Crown employment;
- (c) any reference to dismissal shall be construed as a reference to the termination of Crown employment;
- (d) any reference to redundancy shall be construed as a reference to the existence of such circumstances as, in accordance with any arrangements for the time being in force as mentioned in [^{F47}Section 111(3) of the ^{M22}Employment Protection (Consolidation) Act 1978], are treated as equivalent to redundancy in relation to Crown employment;
- (e) the reference in section 18(1)(e) above to the employer's undertaking shall be construed as a reference to the national interest; and
- (f) any other reference to an undertaking shall be construed, in relation to a Minister of the Crown, as a reference to his functions or (as the context may require) to the department of which he is in charge and, in relation to a government department, officer or body, shall be construed as a reference to the functions of the department, officer or body or (as the context may require) to the department, officer or body.

(8) ^{F48}

Textual Amendments

- F43** Word repealed by [Employment Act 1980 \(c. 42\)](#), **Sch. 2**
- F44** Words repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), **Sch. 17**
- F45** Words substituted by [Employment Act 1980 \(c. 42\)](#), **Sch. 1 para. 5**
- F46** Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), **Sch. 16 para. 23(1)(10)**
- F47** Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), **Sch. 16 para. 23(1)(11)**
- F48** Ss. 22–39, 41–88, 108(2)–(8), 109, 112, 119(2)(8)–(11), 120, 121(8), 122(3), 124(2)–(4), 126(3)(5), 128(2), 129(2), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17 repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), **Sch. 17**

Marginal Citations

- M19** 1953 c. 50.
- M20** 1978 c. 44.
- M21** 1978 c. 44.
- M22** 1978 c. 44.

122 Application of employment legislation to House of Commons staff.

- (1) The provisions of this Act, . . . ^{F49} shall apply to relevant members of House of Commons staff as they apply to persons in Crown employment within the meaning of section 121 above, and accordingly for the purposes of the application of those provisions in relation to any such members—
 - (a) any reference to an employee shall be construed as a reference to any such member;

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- (b) any reference to a contract of employment shall be construed as [^{F50}including] a reference to the terms of employment of any such member;
 - (c) any reference to dismissal shall be construed as [^{F50}including] a reference to the termination of any such member's employment;
 - (d) the references in . . . ^{F49} section 18(1)(e) above to any person's undertaking or any undertaking in which he works shall be construed as a reference to the national interest or, if the case so requires, the interests of the House of Commons; and
 - (e) any other reference to an undertaking shall be construed as a reference to the House of Commons.
- [^{F51}(2) The provisions of the following enactments, that is to say—
- (a) section 1 of the ^{M23}Equal Pay Act 1970; and
 - (b) Parts II and IV of the ^{M24}Sex Discrimination Act 1975; and
 - (c) Parts II and IV of the ^{M25}Race Relations Act 1976] shall apply to an act done by an employer of a relevant member of House of Commons staff and to service as such a member as they apply to an act done by, and to service for the purposes of, a Minister of the Crown or Government department, and accordingly shall so apply as if references in those provisions to a contract of employment included references to the terms of service of such a member.
- [^{F52}(3) ^{F53}
- (4) In this section—
- “relevant member of the House of Commons staff” means—
- (a) any person appointed by the House of Commons Commission (in this section referred to as the Commission) or employed in the refreshment department; and
 - (b) any member of Mr. Speaker's personal staff;
- ^{F54}
- “the court” means the High Court or the county court.
- (5) It is hereby declared that for the purposes of the enactments applied by subsections (1) and (2) above . . . ^{F49} —
- (a) the Commission is the employer of staff appointed by the Commission; and
 - (b) Mr. Speaker is the employer of his personal staff and of any person employed in the refreshment department and not falling within paragraph (a) above;
- but the foregoing provision shall have effect subject to subsection (6) below.
- (6) The Commission or, as the case may be, Mr. Speaker may designate for all or any of the purposes mentioned in subsection (5) above—
- (a) any description of staff other than Mr. Speaker's personal staff; and
 - (b) in relation to staff so designated, any person;
- and where a person is so designated he, instead of the Commission or Mr. Speaker, shall be deemed for the purposes to which the designation relates to be the employer of the persons in relation to whom he is so designated.
- (7) Where any proceedings are brought by virtue of this section against the Commission or Mr. Speaker or any person designated under subsection (6) above, the person against whom the proceedings are brought may apply to the court or industrial tribunal, as the case may be, to have some other person against whom the proceedings could at

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the time of the application be properly brought substituted for him as a party to those proceedings.

(7A) For the purposes mentioned in subsection (5) above a person's employment in or for the purposes of the House of Commons shall not, provided he continues to be employed in such employment, be treated as terminated by reason only of a change (whether effected before or after the passing of the ^{M26}House of Commons (Administration) Act 1978, and whether effected by virtue of that Act or otherwise) in his employer and (provided he so continues) his first appointment to such employment shall be deemed after the change to have been made by his employer for the time being, and accordingly—

- (a) he shall be treated for the purposes so mentioned as being continuously employed by that employer from the commencement of such employment until its termination; and
- (b) anything done by or in relation to his employer for the time being in respect of such employment before the change shall be so treated as having been done by or in relation to the person who is his employer for the time being after the change.

(7B) In subsection (7A) above 'employer for the time being' in relation to a person who has ceased to be employed in or for the purposes of the House of Commons, means the person who was his employer immediately before he ceased to be so employed, except that where some other person would have been his employer for the time being if he had not ceased to be so employed, it means that other person.]

(8) If the House of Commons resolves at any time that any provision of [F55 subsections (4) to (7)] above should be amended in its application to any member of the staff of that House, Her Majesty may by Order in Council amend that provision accordingly.

(9) F56

Textual Amendments

- F49** Words repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), **Sch. 17**
- F50** Word inserted by [House of Commons \(Administration\) Act 1978 \(c. 36\)](#), **Sch. 2 para. 5(1)(2)**
- F51** Words substituted by [Race Relations Act 1976 \(c. 74\)](#), **Sch. 3 para. 1(5)**
- F52** [S. 122\(3\)–\(7B\)](#) substituted for [s. 122\(3\)–\(7\)](#) by [House of Commons \(Administration\) Act 1978 \(c. 36\)](#), **Sch. 2 para. 5(1)(3)**
- F53** [Ss. 22–39, 41–88, 108\(2\)–\(8\), 109, 112, 119\(2\)\(8\)–\(11\), 120, 121\(8\), 122\(3\), 124\(2\)–\(4\), 126\(3\)\(5\), 128\(2\), 129\(2\), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17](#) repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), **Sch. 17**
- F54** Definition repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), **Sch. 17**
- F55** Words substituted by [House of Commons \(Administration\) Act 1978 \(c. 36\)](#), **Sch. 2 para. 5(1)(4)**
- F56** [S. 122\(9\), Sch.16 Pt. IV para. 1](#) repealed by [House of Commons \(Administration\) Act 1978 \(c. 36\)](#), **Sch. 3**

Marginal Citations

- M23** 1970 c. 41.
- M24** 1975 c. 14.
- M25** 1976 c. 74.
- M26** 1978 c. 36.

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123 Orders, rules and regulations.

- (1) Any power conferred by any provision of this Act to make an order (other than an Order in Council) or to make rules or regulations shall be exercisable by statutory instrument.
- (2) Any statutory instrument made under any power conferred by this Act to make an Order in Council or other order or to make rules or regulations, except—
 - (a) an instrument required to be laid before Parliament in draft; and
 - (b) an order under section . . . ^{F57} 107 above or section 129 below,
 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any such power shall include power to make such incidental, supplementary or transitional provisions as appear to the authority exercising the power to be necessary or expedient.
- (4) Any such power to make an order shall, except in the case of an order made under Part III of this Act, include power to revoke or vary the order by a subsequent order made under that provision.

Textual Amendments

F57 Words repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

124 Financial provisions.

- (1) Subject to the following provisions of this section, there shall be defrayed out of moneys provided by Parliament—
 - (a) all expenses incurred by the Secretary of State or any other Minister of the Crown or any government department in consequence of the provisions of this Act;
 - (b) any expenses incurred by Mr. Speaker or by any person designated by him under section 122 above, in consequence of any enactment which is applied by that section; and
 - (c) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.
- (2) ^{F58}
- (5) There shall be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act, except sums which are expressly required to be paid into the Maternity Pay Fund, the Redundancy Fund or the National Insurance Fund.
- (6) As respects any increase attributable to the provisions of this Act in the expenses which under section 135(3)(a) of the ^{M27}Social Security Act 1975 are to be paid out of moneys provided by Parliament, subsection (1)(c) above is without prejudice to the provision made by subsection (5) of that section for reimbursement out of the National Insurance Fund.

Status: Point in time view as at 04/03/1991.

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Textual Amendments

F58 Ss. 22–39, 41–88, 108(2)–(8), 109, 112, 119(2)(8)–(11), 120, 121(8), 122(3), 124(2)–(4), 126(3)(5), 128(2), 129(2), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17 repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

Marginal Citations

M27 1975 c. 14.

125 Minor and consequential amendments, transitional provisions and repeals.

- (1) [^{F59}The provisions of the 1974 Act specified in Part III of Schedule 16 to this Act] and the enactments specified in Part IV of that Schedule, shall have effect subject to the amendments so specified respectively, being minor amendments and amendments consequential on any provisions of this Act.
- (2) The transitional provisions in Schedule 17 to this Act shall have effect.
- (3) The enactments specified in Schedule 18 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

Textual Amendments

F59 Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16 para. 23\(1\)\(12\)](#)

Modifications etc. (not altering text)

C30 The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt.I, Pt.II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1)(2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt.IV paras. 2(1)–(4), 3(1)(2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

126 Interpretation.

- (1) In this Act, except so far as the context otherwise requires—
 - “associated employer”, “collective agreement”, “employee”, “employer”, “independent trade union” and “independence” and “independent” (in relation to a trade union), “official”, “successor”, . . . ^{F60}“trade union”, “union membership agreement” and “worker” have the same meanings respectively as in the 1974 Act;
 - “business” includes a trade or profession and includes any activity carried on by a body of persons, whether corporate or unincorporate;
 - “collective bargaining” means negotiations relating to or connected with one or more of the matters specified in section 29(1) of the 1974 Act;
 - “Committee” has the meaning assigned to it by section 10 above;

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“dismiss”, “dismissal” and “effective date of termination” shall be construed in accordance with [^{F61}section 55 of the ^{M28}Employment Protection (Consolidation) Act 1978];

.....^{F62}

“the 1974 Act” means the ^{M29}Trade Union and Labour Relations Act 1974; “recognition” [^{F63}in relation to a trade union, means the recognition of the union by an employer, or two or more associated employers, to any extent, for the purpose of collective bargaining] and cognate expressions shall be construed accordingly;

“Service” has the meaning assigned to it by section 1 above.

[^{F64}“trade dispute” has the meaning assigned by section 126A below]

- (2) “Employers’ associations”, except in Part III of this Act, has the same meaning as in the 1974 Act and in the said Part III and in any enactment thereby amended means any organisation representing employers and any association of such organisations or of employers and such organisations.
- (3)^{F65}
- (4) For the purposes of this Act employees are to be treated, in relation to a union membership agreement, as belonging to the same class if they have been identified as such by the parties to the agreement, and employees may be so identified by reference to any characteristics or circumstances whatsoever.
- (5)^{F65}
- (6) In this Act references to redundancy or to being redundant, in relation to an employee, are references to—
- (a) the fact that the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee is or was employed by him, or has ceased, or intends to cease, to carry on that business in the place where the employee is or was so employed, or
 - (b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he is or was so employed, have ceased or diminished or are expected to cease or diminish.
- (7) In subsection (6) above, “cease” means cease either permanently or temporarily and from whatsoever cause, and “diminish” has a corresponding meaning.
- (8) For the purposes of this Act it is immaterial whether the law which (apart from this Act) governs any person’s employment is the law of the United Kingdom, or a part of the United Kingdom, or not.
- (9) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

Textual Amendments

F60 Words repealed by [Employment Act 1982 \(c. 46, SIF 43:5\)](#), s. 21, [Sch. 3 para. 13\(2\)\(a\)](#), Sch. 4

F61 Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16 para. 23\(1\)\(13\)](#)

F62 Definition repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

Status: Point in time view as at 04/03/1991.

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- F63** Words substituted by [Employment Act 1980 \(c. 42\), Sch. 1 para. 6](#)
- F64** Definition inserted by [Employment Act 1982 \(c. 46, SIF 43:5\), s. 21, Sch. 3 para. 13\(2\)\(b\)](#)
- F65** [Ss. 22–39, 41–88, 108\(2\)–\(8\), 109, 112, 119\(2\)\(8\)–\(11\), 120, 121\(8\), 122\(3\), 124\(2\)–\(4\), 126\(3\)\(5\), 128\(2\), 129\(2\), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17 repealed by \[Employment Protection \\(Consolidation\\) Act 1978 \\(c. 44\\), Sch. 17\]\(#\)](#)

Marginal Citations

- M28** [1978 c. 44.](#)
- M29** [1974 c. 52.](#)

[^{F66}126A Meaning of trade dispute.

- (1) In this Act “trade dispute” means a dispute between employers and workers, or between workers and workers, which is connected with one or more of the following, that is to say—
- (a) terms and conditions of employment, or the physical conditions in which any workers are required to work;
 - (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;
 - (c) allocation of work or the duties of employment as between workers or groups of workers;
 - (d) matters of discipline;
 - (e) the membership or non-membership of a trade union on the part of a worker;
 - (f) facilities for officials of trade unions; and
 - (g) machinery for negotiation or consultation, and other procedures, relating to any of the foregoing matters, including the recognition by employers or employers’ associations of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.
- (2) A dispute between a Minister of the Crown and any workers shall, notwithstanding that he is not the employer of those workers, be treated for the purposes of this Act as a dispute between employer and those workers if the dispute relates—
- (a) to matters which have been referred for consideration by a joint body on which, by virtue of any provision made by or under any enactment, that Minister is represented; or
 - (b) to matters which cannot be settled without that Minister exercising a power conferred on him by or under an enactment.
- (3) There is a trade dispute for the purposes of this Act even though it relates to matters occurring outside Great Britain.
- (4) A dispute to which a trade union or employers’ association is a party shall be treated for the purposes of this Act as a dispute to which workers or, as the case may be, employers are parties.
- (5) An act, threat or demand done or made by one person or organisation against another which, if resisted, would have led to a trade dispute with that other, shall, notwithstanding that because that other submits to the act or threat or accedes to the demand no dispute arises, be treated for the purposes of this Act as being done or made in contemplation of a trade dispute with that other.

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(6) In this section—

“employment” includes any relationship whereby one person personally does work or performs services for another;

“worker”, in relation to a dispute to which an employer is a party, includes any worker even if not employed by that employer.]

Textual Amendments

F66 S. 126A inserted by [Employment Act 1982 \(c. 46, SIF 43:5\)](#), s. 21, [Sch. 3 para. 13\(3\)](#)

127 Power to extend employment legislation.

(1) Her Majesty may by Order in Council provide that the provisions of—

- (a)^{F67}
- [^{F68}(b) the Industrial Training Act 1982.]
- [^{F69}(bb) the Agricultural Training Board Act 1982]
- (c)^{F70}
- (e) the 1974 Act;
- (f) this Act; and
- [^{F71}(ff) the Employment Act 1980; and]
- [^{F72}(fg) the Employment Act 1982; and]
- (g) any legislation (that is to say any enactment of the Parliament of Northern Ireland and any provision made by or under a Measure of the Northern Ireland Assembly) for the time being in force in Northern Ireland which makes provision for purposes corresponding to any of the purposes of any of the Acts mentioned . . .^{F73} above,

shall, to such extent and for such purposes as may be specified in the Order, apply (with or without modification) to or in relation to any person in employment to which this section applies.

[^{F74}(2) This section applies to employment for the purposes of—

- (a) any activities in the territorial waters of the United Kingdom; or
- (b) any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the Oil and Gas (Enterprise) Act 1982 (application of civil law to certain offshore activities) were omitted, would nevertheless fall within subsection (2) of that section.]
- (a) in the territorial waters of the United Kingdom; or
- (b) connected with the exploration of the sea bed or subsoil or the exploitation of their natural resources in any area designated by order under section 1(7) of the ^{M30}Continental Shelf Act 1964.

(3) An Order in Council under subsection (1) above—

- (a) may make different provision for different cases;
- (b) may provide that all or any of the provisions of any Act mentioned in that subsection, as applied by such an Order, shall apply to individuals whether or not they are British subjects and to bodies corporate whether or not they are incorporated under the law of any part of the United Kingdom (notwithstanding that the application may affect their activities outside the United Kingdom);

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- (c) may make provision for conferring jurisdiction on any court or class of court specified in the Order, or on industrial tribunals, in respect of offences, causes of action or of matters arising in connection with employment to which this section applies;
 - (d) without prejudice to the generality of subsection (1) above or of paragraph (a) above, may provide that the enactments referred to in that subsection shall apply in relation to any person in employment for the purposes of such activities as are referred to in subsection (2) above in any part of the areas specified in paragraphs (a) and (b) of that subsection;
 - (e) may exclude from the operation of section 3 of the ^{M31}Territorial Waters Jurisdiction Act 1878 (consents required for prosecutions) proceedings for offences under the enactments referred to in subsection (1) above in connection with employment to which this section applies;
 - (f) may provide that such proceedings shall not be brought without such consent as may be required by the Order;
 - (g) may, without prejudice to the generality of the power under subsection (1) above to modify the enactments referred to in that subsection in their application for the purposes of this section, modify or exclude the operation of . . . ^{F75} section 119 above and of any corresponding provision in any such Northern Irish legislation as is referred to in subsection (1)(g) above.
- (4) Any jurisdiction conferred on any court or tribunal under this section shall be without prejudice to jurisdiction exercisable apart from this section by that or any other court or tribunal.

Textual Amendments

- F67** S. 127(1)(a) repealed by Wages Councils Act 1979 (c. 12), Schs. 5, 7
- F68** S. 127(1)(b) substituted by Industrial Training Act 1982 (c. 10, SIF 43:1), s. 20, **Sch. 3 para. 6**
- F69** S.127(1)(bb) inserted by Agricultural Training Board Act 1982 (c. 9, SIF 2:1), s. 11(3)
- F70** S. 127(1)(c)(d) repealed by (E.W.S.) Employment Protection (Consolidation) Act 1978 (c. 44), **Sch. 17** and (N.I) S.I. 1981/839 (N.I.20), art. 1(1), **Sch.**
- F71** S. 127(1)(ff) inserted by Employment Act 1980 (c. 42), **Sch. 1 para. 7**
- F72** S. 127(1)(g) inserted by Employment Act 1982 (c. 46, SIF 43:5), **Sch. 3 para. 13(4)**
- F73** Word repealed by Employment Act 1980 (c. 42), **Sch. 2**
- F74** S. 127(2) substituted by Oil and Gas (Enterprise) Act 1982 (c. 23, SIF 86), s. 37(1), **Sch. 3 para. 25**
- F75** Words repealed by (E.W.S.) Employment Protection (Consolidation) Act 1978 (c. 44), **Sch. 17** and (N.I.) S.I. 1981/839 (N.I. 20), art. 1(1), **Sch.**

Marginal Citations

- M30** 1964 c. 29.
- M31** 1878 c. 73.

128 Northern Ireland.

- (1) If provision is made by Northern Irish legislation (that is to say by or under a Measure of the Northern Ireland Assembly) for purposes corresponding to any of the purposes of this Act, . . . ^{F76}, the Secretary of State may, with the consent of the Treasury make reciprocal arrangements with the appropriate Northern Irish authority for co-ordinating the relevant provisions of this Act . . . ^{F76} with the corresponding provisions

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of the Northern Irish legislation, so as to secure that they operate, to such extent as may be provided by the arrangements, as a single system.

- (2) ^{F77}
- (3) The Secretary of State may make regulations for giving effect in Great Britain to any such arrangements, and any such regulations may make different provision for different cases, and may provide that this Act . . . ^{F76} shall have effect in relation to persons affected by the arrangements subject to such modifications and adaptations as may be specified in the regulations, including provision—
- (a) for securing that acts, omissions and events having any effect for the purposes of the Northern Irish legislation shall have a corresponding effect for the purposes of this Act . . . ^{F76} (but not so as to confer a right to double payment in respect of the same act, omission or event); and
 - (b) for determining, in cases where rights accrue both under this Act . . . ^{F76} and under the Northern Irish legislation, which of those rights shall be available to the person concerned.
- (4) In this section “the appropriate Northern Irish authority” means such authority as may be specified in that behalf in the Northern Irish legislation.

Textual Amendments

F76 Words repealed by (E.W.S.) [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#) and (N.I.) [S.I. 1981/839 \(N.I. 20\)](#), art. 1(1), [Sch.](#)

F77 [Ss. 22–39, 41–88, 108\(2\)–\(8\), 109, 112, 119\(2\)\(8\)–\(11\), 120, 121\(8\), 122\(3\), 124\(2\)–\(4\), 126\(3\)\(5\), 128\(2\), 129\(2\), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17](#) repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

129 Short title, commencement and extent.

- (1) This Act may be cited as the Employment Protection Act 1975.
- (2) ^{F78}
- (3) The other provisions of this Act shall come into operation on such day as the Secretary of State may by order appoint, and different days may be so appointed for different purposes.
- (4) Any reference in this Act to the commencement of any provision of this Act shall be construed as a reference to the day appointed under this section for the coming into operation of that provision.
- (5) Without prejudice to the generality of section 123(3) above, an order under this section may contain such transitional provision or savings as appear to the Lord Chancellor or, as the case may be, the Secretary of State to be necessary or expedient in connection with the provisions of this Act which are thereby brought (wholly or in part) into operation, including such adaptations of those provisions then in force as appear to the Lord Chancellor or, as the case may be, the Secretary of State to be necessary or expedient in consequence of their partial operation (whether before, on or after the day appointed by the order).

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- (6) Sections 127 and 128 above and any provision of this Act which amends or repeals any provision of the ^{M32}House of Commons Disqualification Act 1975 or the ^{M33}Northern Ireland Assembly Disqualification Act 1975 shall extend to Northern Ireland, but except as aforesaid this Act shall not extend there.

Textual Amendments

F78 Ss. 22–39, 41–88, 108(2)–(8), 109, 112, 119(2)(8)–(11), 120, 121(8), 122(3), 124(2)–(4), 126(3)(5), 128(2), 129(2), Schs. 2–6, Sch. 12 Pt. II paras. 8–12, Sch. 16 Pts. I,II, Pt. III paras. 8, 10, 11, 13–16, 18–30, 34, Pt.IV para. 14, Sch. 17 paras. 7–10, 16, 17 repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

Modifications etc. (not altering text)

C31 Power of appointment conferred by s. 129(3) fully exercised
C32 “The other provisions” means ss. 87, 88 and Sch. 6

Marginal Citations

M32 1975 c. 24.
M33 1975 c. 25.

Status:

Point in time view as at 04/03/1991.

Changes to legislation:

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