



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Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection Act 1975, Part I. (See end of Document for details)

- (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 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](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection Act 1975, Part 1. (See end of Document for details)

- 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.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection Act 1975, Part I. (See end of Document for details)

- (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.](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection Act 1975, Part I. (See end of Document for details)

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
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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.](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection Act 1975, Part I. (See end of Document for details)

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.**

Status: Point in time view as at 01/02/1991.

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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.**

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Changes to legislation:

There are currently no known outstanding effects for the Employment Protection Act 1975, Part I.