



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART IV

#### INDUSTRIAL RELATIONS

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#### GENERAL

#### *Functions of ACAS*

#### **209 General duty to promote improvement of industrial relations**

It is the general duty of ACAS to promote the improvement of industrial relations, and in particular to encourage the extension of collective bargaining and the development and, where necessary, reform of collective bargaining machinery.

#### **210 Conciliation**

- (1) Where a trade dispute exists or is apprehended ACAS 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 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 ACAS to offer assistance to the parties to the dispute with a view to bringing about a settlement.
- (3) In exercising its functions under this section ACAS 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.

**211 Conciliation officers**

- (1) ACAS shall designate some of its officers to perform the functions of conciliation officers under any enactment (whenever passed) relating to matters which are or could be the subject of proceedings before an industrial tribunal.
- (2) References in any such enactment to a conciliation officer are to an officer designated under this section.

**212 Arbitration**

- (1) Where a trade dispute exists or is apprehended ACAS may, at the request of one or more of the 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 ACAS for that purpose (not being officers or employees of ACAS), or
  - (b) the Central Arbitration Committee.
- (2) In exercising its functions under this section ACAS shall consider the likelihood of the dispute being settled by conciliation.
- (3) Where there exist appropriate agreed procedures for negotiation or the settlement of disputes, ACAS shall not refer a matter for settlement to arbitration under this section unless—
  - (a) those procedures have been used and have failed to result in a settlement, or
  - (b) there is, in ACAS's opinion, a special reason which justifies arbitration under this section as an alternative to those procedures.
- (4) Where a matter is referred to arbitration under subsection (1)(a)—
  - (a) if more than one arbitrator or arbiter is appointed, ACAS shall appoint one of them to act as chairman; and
  - (b) the award may be published if ACAS so decides and all the parties consent.
- (5) Part I of the Arbitration Act 1950 (general provisions as to arbitration) does not apply to an arbitration under this section.

**213 Advice**

- (1) ACAS may give employers, employers' associations, workers and trade unions such advice as it thinks appropriate on matters concerned with industrial relations or employment policies.

The advice may be given on request or otherwise, and shall be without charge.

- (2) The matters on which advice may be given include 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;
  - (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.
- (3) ACAS may also publish general advice on matters concerned with industrial relations or employment policies, including any of the matters referred to above.

## **214 Inquiry**

- (1) ACAS 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 an inquiry under this section, together with any advice given by ACAS in connection with those findings, may be published by ACAS if—
- (a) it appears to ACAS 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 all parties appearing to be concerned and taking account of their views, it thinks fit.

### *Courts of inquiry*

## **215 Inquiry and report by court of inquiry**

- (1) Where a trade dispute exists or is apprehended, the Secretary of State may inquire into the causes and circumstances of the dispute, and, if he thinks fit, appoint a court of inquiry and refer to it any matters appearing to him to be connected with or relevant to the dispute.
- (2) The court shall inquire into the matters referred to it and report on them to the Secretary of State; and it may make interim reports if it thinks fit.
- (3) Any report of the court, and any minority report, shall be laid before both Houses of Parliament as soon as possible.
- (4) The Secretary of State may, before or after the report has been laid before Parliament, publish or cause to be published from time to time, in such manner as he thinks fit, any information obtained or conclusions arrived at by the court as the result or in the course of its inquiry.
- (5) No report or publication made or authorised by the court or the Secretary of State shall include any information obtained by the court of inquiry in the course of its inquiry—
- (a) as to any trade union, or
  - (b) as to any individual business (whether carried on by a person, firm, or company),
- which is not available otherwise than through evidence given at the inquiry, except with the consent of the secretary of the trade union or of the person, firm, or company in question.

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*Status: This is the original version (as it was originally enacted).*

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Nor shall any individual member of the court or any person concerned in the inquiry disclose such information without such consent.

- (6) The Secretary of State shall from time to time present to Parliament a report of his proceedings under this section.

## **216 Constitution and proceedings of court of inquiry**

- (1) A court of inquiry shall consist of—
- (a) a chairman and such other persons as the Secretary of State thinks fit to appoint, or
  - (b) one person appointed by the Secretary of State, as the Secretary of State thinks fit.
- (2) A court may act notwithstanding any vacancy in its number.
- (3) A court may conduct its inquiry in public or in private, at its discretion.
- (4) The Secretary of State may make rules regulating the procedure of a court of inquiry, including rules as to summoning of witnesses, quorum, and the appointment of committees and enabling the court to call for such documents as the court may determine to be relevant to the subject-matter of the inquiry.
- (5) A court of inquiry may, if and to such extent as may be authorised by rules under this section, by order require any person who appears to the court to have knowledge of the subject-matter of the inquiry—
- (a) to supply (in writing or otherwise) such particulars in relation thereto as the court may require, and
  - (b) where necessary, to attend before the court and give evidence on oath; and the court may administer or authorise any person to administer an oath for that purpose.
- (6) Provision shall be made by rules under this section with respect to the cases in which persons may appear by counsel or solicitor in proceedings before a court of inquiry, and except as provided by those rules no person shall be entitled to appear in any such proceedings by counsel or solicitor.

### *Supplementary provisions*

## **217 Exclusion of power of arbiter to state case to Court of Session**

Section 3 of the Administration of Justice (Scotland) Act 1972 (power of arbiter to state case for opinion of Court of Session) does not apply to—

- (a) any form of arbitration relating to a trade dispute, or
- (b) any other arbitration arising from a collective agreement.

## **218 Meaning of “trade dispute” in Part IV**

- (1) In this Part “trade dispute” means a dispute between employers and workers, or between workers and workers, which is connected with one or more of the following matters—

- (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 Part as a dispute between an 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 purpose of this Part even though it relates to matters occurring outside Great Britain.
- (4) A dispute to which a trade union or employer's association is a party shall be treated for the purposes of this Part as a dispute to which workers or, as the case may be, employers are parties.
- (5) In this section—
- “employment” includes any relationship whereby one person personally does work or performs services for another; and
  - “worker”, in relation to a dispute to which an employer is a party, includes any worker even if not employed by that employer.