

1990 No. 2378 (C.63)

TRADE UNIONS

**The Employment Act 1990 (Commencement and
Transitional Provisions) Order 1990**

Made - - - - *27th November 1990*

The Secretary of State, in exercise of the powers conferred on him by subsections (3) and (4) of section 18 of the Employment Act 1990 (a), hereby makes the following Order:—

Citation and interpretation

1.—(1) This Order may be cited as the Employment Act 1990 (Commencement and Transitional Provisions) Order 1990.

(2) In this Order, “the Act” means the Employment Act 1990.

Commencement provisions

2. All the provisions of the Act not brought into force on Royal Assent (by section 18(2) of the Act) shall come into force on 1st January 1991, except for the provisions mentioned in article 3.

3. The following provisions of the Act (which relate to the merger of the Redundancy Fund with the National Insurance Fund) shall come into force on 1st February 1991—

- (a) section 13 (merger of Redundancy Fund with National Insurance Fund &c.);
- (b) section 16(1) (consequential amendments) to the extent that it relates to paragraphs 1(3), (4), (5) and (6) of Schedule 2 to the Act;
- (c) section 16(2) (repeals) to the extent that it relates to the repeals in Schedule 3 to the Act mentioned in the Schedule to this Order.

Transitional provisions

4.—(1) Except as mentioned in paragraph (2), section 1(3) or, as may be appropriate, 2(3) of the Act (which concern advertisements containing union membership requirements) shall apply in any case where the advertisement in question is published after 31st December 1990.

(2) Section 1(3) or, as may be appropriate, 2(3) of the Act shall not apply in relation to an advertisement where it is contained in a book or periodical which is published after 31st December 1990 by a person other than the employer or, as the case may be, employment agency if—

- (a) the book or periodical was first published before 1st January 1990; or
- (b) the last date on which the publisher of the book or periodical would have entertained a request to alter the contents of the advertisement fell before 1st January 1990.

For this purpose, “periodical” means any newspaper, magazine, catalogue or like publication, and each version or edition of a book or issue of a periodical shall be regarded as a different book or periodical.

5.—(1) Sections 5(1), (2) and (3) of the Act (which concern ballots about industrial action) shall not apply in relation to a ballot if the first day on which votes may be cast in the ballot falls before 1st January 1991.

(2) Section 5(4) and (5) of the Act (which concern political fund ballots and ballots for union office) shall not apply in relation to a ballot if the scrutineer begins to carry out his functions in relation to the ballot before 1st January 1991.

6. Neither—

- (a) the amendments made to section 15 of the Employment Act 1982(a) by section 6 of the Act (responsibility of trade union for acts of officials, &c.); nor
- (b) the amendments made to section 10 of the Trade Union Act 1984(b) and section 1 of the Employment Act 1988(c) by paragraphs 2 and 3 of Schedule 2 to the Act; nor
- (c) the repeals in section 15 of the Employment Act 1982 made by Schedule 3 to the Act

shall have effect in relation to an act unless the act is done, or authorised or endorsed, after 31st December 1990 in accordance with section 15 of the Employment Act 1982 as amended by the Act.

7.—(1) Sections 7 (calling of industrial action with support of ballot) and 8 (period after which ballot ceases to be effective) of the Act shall not apply in relation to a ballot if the first day on which votes may be cast in the ballot falls before 1st January 1991.

(2) Where—

- (a) it is alleged in proceedings that industrial action did not have the support of a ballot on the ground that there was a call by the trade union to take part or continue to take part in industrial action, or an authorisation or endorsement by the trade union of such action, before the date of the ballot; and
- (b) it is determined that the call or authorisation or endorsement occurred before 1st January 1991,

the call shall only be taken to have been made by the union, and industrial action shall only be taken to have been authorised or endorsed by the union if there was an authorisation or endorsement of an act (within the meaning of subsection (2) of section 15 of the Employment Act 1982) which made the act an act done by the union for the purposes of the said section 15 as it stood before the amendments made to it by section 6 of the Act came into force.

8.—(1) Section 62A of the Employment Protection (Consolidation) Act 1978(d) inserted in that Act by section 9(1) of the Act (dismissal of those taking part in unofficial industrial action) and paragraph 2 of Schedule 2 to the Act shall apply to the dismissal of an employee if the time of his dismissal falls after 31st December 1990.

(2) Industrial action shall not be regarded as unofficial in relation to an employee for the purposes of the said section 62A if—

- (a) the action is taken in response only to a call to take industrial action made before 1st January 1991; or
- (b) the action started before 1st January 1991.

9. Section 10 of the Act (proceedings in respect of which assistance may be provided) shall apply to all proceedings except proceedings which end before 1st January 1991.

Signed by order of the Secretary of State.

27th November 1990

Eric Forth
Parliamentary Under Secretary of State,
Department of Employment

(a) 1982 c.46.
(d) 1978 c.44.

(b) 1984 c.49.

(c) 1988 c.19.

Repeals specified in Schedule 3 to the Act coming into force on 1st February 1991

The repeal of the Redundancy Fund Act 1981 (c.5)

The repeals in the following Acts:

Social Security Act 1975 (c.14)

Employment Protection Act 1975 (c.71)

Employment Protection (Consolidation) Act 1978 (c.44)

Finance Act 1980 (c.48)

Social Security (Contributions) Act 1981 (c.1)

Social Security (Contributions) Act 1982 (c.2)

Social Security Act 1985 (c.53)

Social Security Act 1986 (c.50)

Social Security Act 1989 (c.24)

Employment Act 1989 (c.38)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings the provisions of the Employment Act 1990 concerned with the merger of the Redundancy Fund and the National Insurance Fund into force on 1st February 1991 and all other provisions of the Act into force on 1st January 1991 (other than those brought into force on Royal Assent).

The Order contains transitional provisions.

95p net

ISBN 0 11 005378 8

Printed in the United Kingdom for HMSO

831/WO 2085 C26 12/90 452/1 9385/1502/8853 88352