



Trade Union and Labour Relations Act 1974

1974 CHAPTER 52

Miscellaneous

19 Transitional provisions for trade unions and employers' associations ceasing to be incorporated

- (1) The provisions of this section shall have effect in relation to a trade union or an employers' association to which they are applied by section 2(4) or 3(3) above; and in this section "the relevant date" means the day on which, under section 2(4) or 3(3) above, such a trade union or employers' association ceases to be a body corporate.
- (2) On the relevant date—
 - (a) all property vested in the trade union or in the employers' association immediately before that date shall by virtue of this paragraph (and without the execution of any instrument) vest in the trustees who, in accordance with subsection (3) below, are the appropriate trustees;
 - (b) all liabilities, obligations and rights of the trade union or of the employer's association subsisting immediately before that date shall, in so far as they are liabilities, obligations or rights affecting any property so vested (instead of continuing to be liabilities, obligations or rights of the union or association) become liabilities, obligations and rights of the trustees who, in accordance with subsection (3) below, are the appropriate trustees.
- (3) The appropriate trustees for the purposes of subsection (2) above are—
 - (a) the trustees appointed in writing for the purposes of this section by or on behalf of the members of the trade union or employers' association ;
 - (b) in a case where no such trustees are appointed, the official trustees of the trade union or employers' association.
- (4) A certificate given by the official trustees of a trade union or employers' association that the persons named in the certificate are the appropriate trustees of that union or association for the purposes of subsection (2) above shall be conclusive evidence

Status: This is the original version (as it was originally enacted).

that those persons are the appropriate trustees of that union or association for those purposes; and a document which purports to be such a certificate shall be taken to be such a certificate unless the contrary is proved.

- (5) In this section " official trustees ", in relation to a trade union or an employers' association, means the two officers of the union or association who, on the relevant date, are the president and the general secretary of the union or association or occupy a position equivalent to that of president and general secretary respectively of a trade union or employers' association.
- (6) Nothing in section 12 of the Finance Act 1895 (which requires certain Acts to be stamped as conveyances on sale) shall be taken as applying to this Act.

20 Power to alter certain rules of trade unions restricting the application of funds

- (1) Where during the period commencing with 1st December 1970 and ending with the passing of this Act a trade union has—
- (a) made or amended any rule of the union so as to preclude any particular fund belonging to or held in trust for the union from being used for financing strikes or other industrial action; and
 - (b) has declared in its rules that the rule or the rule as so amended shall be incapable of revocation or alteration ;
- then, notwithstanding the declaration, the rule so made or amended may, subject to subsection (2) below, be revoked or amended.
- (2) No rule of a trade union shall be revoked or amended by virtue of subsection (1) above after the expiration of the period of four years beginning with the date of the passing of this Act; and nothing in that subsection shall be taken to authorise the amendment or revocation of a rule of a trade union otherwise than in accordance with the procedural rules of that union.

21 Effect of abolition of National Industrial Relations Court on pending proceedings and decisions given

- (1) In this section and sections 22 and 23 below—
- " the Court " means the National Industrial Relations Court;
 - " abate ", in relation to any proceedings, means that the proceedings shall be treated as discontinued and, in relation to any decision, means that the decision, so far as not enforced, shall be unenforceable;
 - " decision " includes a judgment, order or award and any reference to the giving of a decision shall be construed accordingly;
 - " pending " means pending immediately before the passing of this Act;
- and for the purposes of this section and those sections proceedings shall be treated as pending in the Court or an industrial tribunal until a final decision is given in those proceedings by the Court or the tribunal, as the case may be.
- (2) On the passing of this Act, except in so far as provision is made by subsections (3) to (7) below for proceedings of the descriptions mentioned in those subsections—
- (a) proceedings commenced in the Court before 30th April 1974 and pending in the Court shall be transferred by virtue of this paragraph to the High Court or the Court of Session;

- (b) proceedings commenced in the Court on or after 30th April 1974 or any decision in those proceedings shall abate;
 - (c) any right of appeal against any such decision other than a right saved by section 23(1) below shall be extinguished and any appeal from any such decision or any decision on any such appeal shall abate.
- (3) Where a complaint has been presented to the Court under section 103 of the 1971 Act (complaints by Registrar against registered union or employers' association), then, if the complaint was presented before 30th April 1974 and is pending in the Court, the complaint shall, on the passing of this Act, be transferred by virtue of this subsection to an industrial tribunal.
- (4) Where an appeal arising out of any proceedings or decision of an industrial tribunal has been instituted in the Court, then—
 - (a) in the case of an appeal which is pending in the Court and arose out of proceedings or a decision under the Contracts of Employment Act 1972 or the Redundancy Payments Act 1965 or on a complaint under the 1971 Act by an employee that he has been unfairly dismissed by his employer, the appeal shall on the passing of this Act be transferred by virtue of this paragraph, to the High Court or the Court of Session;
 - (b) in the case of an appeal of any other description, the appeal shall, if the proceedings in the industrial tribunal were commenced before 30th April 1974 and the appeal is pending in the Court, be transferred by virtue of this paragraph on the passing of this Act to the High Court or the Court of Session;
 - (c) in the case of an appeal of a description referred to in paragraph (b) above, where the proceedings in the industrial tribunal were commenced on or after 30th April 1974, the appeal or any decision on the appeal shall on the passing of this Act abate.
- (5) Where an appeal arising out of proceedings before the Chief Registrar of Trade Unions and Employers' Associations or any assistant registrar of his has been instituted and is pending in the Court, then—
 - (a) if the decision appealed from was made under any provision of the Trade Union Act 1913 (funds for political purposes), the appeal shall on the passing of this Act be transferred by virtue of this paragraph to the High Court or the Court of Session;
 - (b) if the appeal is by way of case stated in proceedings on a complaint under section 4 of the Trade Union (Amalgamations, etc.) Act 1964 (complaints about resolutions to amalgamate), the appeal shall on the passing of this Act be so transferred by virtue of this paragraph ;
 - (c) if the appeal arises out of any other proceedings, the appeal or any decision on the appeal shall on the passing of this Act abate.
- (6) Where a complaint has been transferred by an industrial tribunal to the Court by virtue of section 111 of the 1971 Act and is pending in the Court, then—
 - (a) in the case of a complaint by an employee that he has been unfairly dismissed by his employer, the complaint shall on the passing of this Act be transferred by virtue of this paragraph back to the tribunal from which it was so transferred;
 - (b) in the case of a complaint of any other description presented before 30th April 1974, the complaint shall on the passing of this Act be transferred by virtue of this paragraph back to the tribunal from which it was so transferred;

- (c) in the case of a complaint of a description referred to in paragraph (b) above presented on or after 30th April 1974, the complaint or any decision on the complaint shall on the passing of this Act abate.
- (7) Where, under any provision of the 1971 Act, proceedings have been commenced in the Court at any time with a view to the making of a reference or request to the Commission on Industrial Relations, then—
- (a) if the proceedings are pending in the Court and no reference or request has been made in the proceedings, those proceedings shall on the passing of this Act abate;
 - (b) if a reference or request so made in those proceedings is outstanding immediately before the passing of this Act, the reference or request shall be treated as withdrawn on the passing of this Act, and, subject to subsection (10) below, those proceedings shall then abate ;
 - (c) any order of the Court made in proceedings resulting from a reference or request to that Commission shall cease to have effect on the passing of this Act.
- (8) Where proceedings are transferred by virtue of subsection (2), (4) or (5) above, the proceedings shall be transferred, in the case of proceedings in England and Wales, to the High Court and, in the case of proceedings in Scotland, to the Court of Session and may be continued there accordingly.
- (9) Rules of court relating to proceedings so transferred may provide for excluding so much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as requires appeals to the High Court to be heard and determined by a divisional court; but no appeal to the Court of Appeal shall be brought against a decision of the High Court on an appeal transferred by virtue of any provision of this section except with the leave of the High Court or the Court of Appeal.
- (10) Where a reference or a request by the Court to the Commission on Industrial Relations is treated as withdrawn by virtue of subsection (7)(b) above, the Secretary of State may authorise the Commission to make a report of its findings and recommendations on that reference or request to those persons appearing to the Commission to be directly concerned, and to arrange for the report to be published in such manner as the Commission consider appropriate; and paragraph 43(1) of Schedule 3 to the 1971 Act (disclosure of information) shall not apply to that report.

22 Effect of repeals on pending proceedings and decisions given by industrial tribunals

Where a complaint, other than a complaint that an employee has been unfairly dismissed by his employer, has been presented to an industrial tribunal under any provision of the 1971 Act on or after 30th April 1974, then, when the repeal of that provision by this Act takes effect—

- (a) the complaint or any decision on the complaint shall abate;
- (b) any right of appeal against any such decision which is exercisable before that repeal takes effect shall be extinguished;
- (c) any appeal from any such decision or any decision on any such appeal shall abate.

23 Provisions supplementary to sections 21 and 22

- (1) A decision given by the Court before the passing of this Act—
 - (a) in proceedings commenced in the Court before 30th April 1974;
 - (b) on an appeal instituted in the Court on or after 30th April 1974 in proceedings in which, if the appeal had been pending in the Court immediately before the passing of this Act, the appeal would have been transferred by virtue of any provision of section 21 above; or
 - (c) on a complaint which, if it had been pending in the Court immediately before the passing of this Act, would have been transferred back to an industrial tribunal by virtue of section 21(6) above ;may, so far as not enforced, be enforced after the passing of this Act as if it were a judgment of the High Court or the Court of Session, and any right of appeal from such a decision to the Court of Appeal or the Court of Session exercisable under paragraph 29 of Schedule 3 to the 1971 Act (appeals) shall continue to be exercisable, and any appeal from such a decision (whether instituted before or after the passing of this Act) shall be heard and determined accordingly, after the repeal of that paragraph by this Act takes effect.
- (2) Without prejudice to section 38 of the Interpretation Act 1889 (effect of repeals) any decision given by any court or tribunal—
 - (a) in any proceedings (including proceedings under the 1971 Act) before the repeal by this Act of sections 153 and 154 of the 1971 Act (enforcement) takes effect, or
 - (b) in any proceedings transferred to any court by virtue of any provision of section 21 above ;and falling to be enforced to any extent after that repeal takes effect shall not be enforceable against property of any description against which it would not have been enforceable before that repeal takes effect by virtue of any provision of the said section 153 or 154, as the case may be.
- (3) Where any right, obligation or liability has accrued or been incurred under any provision of the 1971 Act (other than a provision re-enacted in Schedule 1 to this Act) before the repeal of that provision by this Act takes effect, but no proceedings have been commenced in any court or tribunal to enforce that right, obligation or liability, no proceedings to enforce it (directly or indirectly and by whatever means) shall be commenced in any court or tribunal after that repeal takes effect.
- (4) If on an appeal from the Court after the passing of this Act the Court of Appeal would have exercised a power to order a new trial by the Court, the Court of Appeal shall order the re-hearing to be by the High Court.

24 Power to compensate for loss of office

- (1) If it appears to the Secretary of State that a person who ceases to be a member of the Commission on Industrial Relations by reason of its abolition by this Act should receive compensation for loss of office, he may pay him out of moneys provided by Parliament such sum as he may with the approval of the Minister for the Civil Service determine.
- (2) If it appears to the Lord Chancellor that a person who ceases to be a member of the National Industrial Relations Court by reason of its abolition by this Act should receive

compensation for loss of office, he may pay him out of moneys provided by Parliament such sum as he may with the approval of the Minister for the Civil Service determine.

25 Miscellaneous amendments, and transitional provisions and repeals

- (1) Schedule 3 to this Act shall have effect for undoing certain amendments and repeals made by the 1971 Act in certain enactments specified in that Schedule, for continuing the effect of other amendments so made and for making minor amendments and amendments consequential on other provisions of this Act in other enactments so specified.
- (2) The transitional provisions in Schedule 4 shall have effect.
- (3) The enactments specified in Schedule 5 are hereby repealed to the extent specified in the third column of that Schedule.