



# Aircraft and Shipbuilding Industries Act 1977 (repealed)

## 1977 CHAPTER 3

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Arbitration and the Arbitration Tribunal*

#### **42 The arbitration tribunal.**

- (1) For the purpose of determining—
- any question or dispute which, under any provision of this Act, is expressly required to be determined by or is referred to “arbitration under this Act”, or
  - any matter in respect of which jurisdiction is given to the arbitration tribunal under this Act,

there shall be established a tribunal called the Aircraft and Shipbuilding Industries Arbitration Tribunal (in this Act referred to as “the arbitration tribunal”).

- (2) The arbitration tribunal shall be a court of record and shall have an official seal which shall be judicially noticed.

[<sup>F1</sup>(2A) The arbitration tribunal shall either sit as a single tribunal or sit in two or more divisions, as the Lord Chancellor may direct after consulting all of the following—

- the Lord Chief Justice of England and Wales;
- the Lord President of the Court of Session;
- the Lord Chief Justice of Northern Ireland.]

- (3) [<sup>F2</sup>For the hearing of any proceedings, the arbitration tribunal shall, subject to subsection (4) below, consist of ]—

- a president who shall be [<sup>F3</sup>(i) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

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(ii) a member of the Bar of Northern Ireland or [<sup>F4</sup>solicitor of the Court of Judicature of Northern Ireland]of at least 7 years’ standing.]

appointed by the Lord Chancellor, and

(b) two other members appointed by the Secretary of State, after consultation with all the stockholders’ representatives, one being a person of experience in business and the other being a person of experience in finance.

(4) In its application to proceedings which, by virtue of this Act, are to be treated as Scottish proceedings, subsection (3) above shall have effect with the substitution, for paragraph (a) thereof, of the following paragraph:—

“(a) a president who shall be an advocate or solicitor of not less than 7 years’ standing who has practised in Scotland and who shall be appointed by the Lord President of the Court of Session”.

(5) [<sup>F5</sup>Subject to subsection (5A) below,] the members of the arbitration tribunal shall hold office for such period as may be determined at the time of their respective appointments and shall be eligible for re-appointment but, notwithstanding that the period for which a member was appointed has not expired,—

(a) a member may, at any time by not less than one month’s notice in writing to his appointor, resign his office;

(b) the appointor of a member may declare the office of that member vacant on the ground that [<sup>F6</sup>he is unfit to continue in office.]

<sup>F7</sup>(c) .....

[<sup>F8</sup>(5A) No appointment of a person to be the president of the arbitration tribunal shall be such as to extend beyond the day on which he attains the age of 70; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).]

(6) If any member of the arbitration tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, his appointor shall appoint some other fit person to discharge his duties for any period not exceeding 6 months at one time, and the person so appointed shall during that period have the same powers as the person in whose place he was appointed.

(7) The provisions of Schedule 7 to this Act shall have effect with respect to the proceedings of the arbitration tribunal and matters relating thereto.

(8) In this section “appointor”, in relation to a member of the arbitration tribunal, means—

(a) in the case of a member appointed under paragraph (a) of subsection (3) above, the Lord Chancellor or, if subsection (4) above applies, the Lord President of the Court of Session; and

(b) in the case of any other member, the Secretary of State.

[<sup>F9</sup>(8A) Where the appointor is, by virtue of subsection (8)(a), the Lord Chancellor, the power conferred by subsection (5)(b) may be exercised only with the concurrence of the appropriate senior judge.

(8B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member whose office is to be declared vacant exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.]

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(9) In the <sup>M1</sup> House of Commons Disqualification Act 1975 and in the <sup>M2</sup> Northern Ireland Assembly Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified), there shall be inserted at the appropriate point the words — “ The Aircraft and Shipbuilding Industries Arbitration Tribunal ”.

<sup>F10</sup>(10) . . . . .

[<sup>F11</sup>(11) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (2A)(a).

(12) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (2A)(b).

(13) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (2A)(c)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F1** S. 42(2A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 4 para. 89\(2\)](#); [S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 11\(e\)](#)
- F2** Words in s. 42(3) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 4 para. 89\(3\)](#); [S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 11\(e\)](#)
- F3** S. 42(3)(a)(i)(ii) substituted for words by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 71\(2\), Sch. 10 para. 40](#)
- F4** Words in Blanket Amendment substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 11 para. 5](#); [S.I. 2009/1604, art. 2\(d\)](#)
- F5** Words in s. 42(5) inserted (31.3.1995) by 1993, c. 8, s. 26, Sch. 6 para. 47; [S.I. 1995/631, art. 2](#).
- F6** Words in s. 42(5)(b) substituted (29.6.2006) by [Enterprise Act 2002 \(Disqualification from Office: General\) Order 2006 \(S.I. 2006/1722\), art. 1\(1\), Sch. 2 para. 2\(a\)](#)
- F7** S. 42(5)(c) omitted (29.6.2006) by virtue of [Enterprise Act 2002 \(Disqualification from Office: General\) Order 2006 \(S.I. 2006/1722\), art. 1\(1\), Sch. 2 para. 2\(b\)](#)
- F8** S. 42(5A) inserted (31.3.1995) by 1993, c. 8, s. 26, Sch. 6 para. 47; [S.I. 1995/631, art. 2](#).
- F9** S. 42(8A)(8B) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 4 para. 89\(4\)](#); [S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 11\(e\)](#)
- F10** S. 42(10) repealed (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\), ss. 18\(2\), 19\(2\), Sch. 4 Pt. I](#)
- F11** S. 42(11)-(13) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 4 para. 89\(5\)](#); [S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 11\(e\)](#)

#### Modifications etc. (not altering text)

- C1** The text of s. 42(9) 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 made prior to 1.2.1991.

#### Marginal Citations

- M1** 1975 c. 24.
- M2** 1975 c. 25.

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#### **43 Scottish proceedings.**

- (1) Where any such question, dispute or matter as is referred to in section 42(1) above arises out of or in connection with the vesting of the securities or of any property, rights or liabilities of any company or in connection with the recovery of assets of any company or in connection with any transactions of any company and either—
  - (a) the company's principal United Kingdom place of business, or
  - (b) the place of the company's principal United Kingdom works,
 is situated in Scotland, then, subject to subsection (3) below, the proceedings before the tribunal in respect of the question, dispute or matter shall be treated as Scottish proceedings.
- (2) If, at any stage in any proceedings before the arbitration tribunal which would not otherwise fall to be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of Scottish law arise, or for any other reason, the proceedings ought thereafter to be treated as Scottish proceedings, the tribunal may order that they shall thereafter be so treated and the provisions of this Act shall have effect accordingly.
- (3) If, at any stage in any proceedings before the arbitration tribunal which would otherwise be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of English law arise or for any other reason, the proceedings ought not to be treated as Scottish proceedings, they may make an order that the proceedings shall thereafter not be treated as Scottish proceedings and the provisions of this Act shall have effect accordingly.

#### **44 Staff and expenses of arbitration tribunal.**

- (1) The arbitration tribunal may appoint such staff as they consider necessary for assisting them in the proper execution of their duties.
- (2) There shall be paid to the members of the arbitration tribunal such remuneration (whether by way of salaries or fees) and such allowances as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.
- (3) There shall be paid to any staff appointed under subsection (1) above and any person to whom proceedings are referred by the arbitration tribunal under paragraph 13 of Schedule 7 to this Act for inquiry and report such remuneration (whether by way of salary or fees) and such allowances as the arbitration tribunal may determine.
- (4) Any such remuneration and allowances as are referred to above and any other expenses of the arbitration tribunal shall be defrayed in the first instance by the Secretary of State out of money provided by Parliament, but the amounts from time to time so paid by the Secretary of State shall be repaid to him on demand by such one of the Corporations as he may determine or, where he considers it appropriate in the case of any amount, by the two Corporations in such proportions as he may determine.
- (5) Any sums repaid to the Secretary of State under subsection (4) above shall be paid into the Consolidated Fund.

#### **Modifications etc. (not altering text)**

- C2** By [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), **s. 10(1)** it is provided that s. 44(4) is repealed in relation to British Aerospace and that any reference in that provision (in whatever terms expressed)

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to either or both of the Corporations originally established by s. 1 of this Act shall be construed as a reference to the other Corporation so established (that is to say, British Shipbuilders)

### *The Corporations*

**45, 46.** ..... <sup>F12</sup>

#### **Textual Amendments**

**F12** Ss. 45, 46 repealed by [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), s. 15(2), [Sch. 3](#)

#### **47 Right of persons to object to practices of British Shipbuilders or their wholly owned subsidiaries.**

(1) Subsections (3) to (6) below shall have effect where a person engaged in shipbuilding, other than—

- (a) British Shipbuilders, or
- (b) one of its wholly owned subsidiaries, or
- (c) a body corporate the whole of whose equity share capital is held by or on behalf of the Crown,

makes to the Secretary of State a written complaint that a practice employed by British Shipbuilders or one of its wholly owned subsidiaries in relation to that or those activities is unfair to the complainant for a reason specified in the complaint.

(2) Subsections (3) to (6) below shall also have effect where a person engaged in shiprepairing, other than—

- (a) British Shipbuilders, or
- (b) one of its wholly owned subsidiaries, or
- (c) a body corporate the whole of whose equity share capital is held by or on behalf of the Crown,

makes to the Secretary of State a written complaint that a practice employed by British Shipbuilders or one of its wholly owned subsidiaries in relation to the provision of shiprepairing services is unfair to the complainant for a reason specified in the complaint.

In this subsection “shiprepairing” includes refitting, converting or maintaining ships, and “the provision of shiprepairing services” has a corresponding meaning.

(3) The Secretary of State shall forthwith after receiving the complaint send a copy of it to British Shipbuilders and, after such period for consideration of, and comment upon, the complaint by British Shipbuilders as the Secretary of State thinks reasonable has elapsed, shall send to the complainant a statement of any comments made by British Shipbuilders on the complaint and, if he is of opinion—

- (a) that the complaint raises a question of substance, and
- (b) that the complainant has a reasonable case to make in support of it,

shall afford the complainant and the Corporation an opportunity of making representations in relation to the matter to a person appointed by the Secretary of State.

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- (4) The Secretary of State shall consider the report of the person appointed under subsection (3) above and, if it appears to him that the practice complained of is unfair to the complainant, shall give British Shipbuilders such directions as appear to him to be requisite to secure the removal of the ground on which it is unfair.
- (5) The Secretary of State shall furnish the complainant with a statement of any such directions.
- (6) When a complainant avails himself of the right to make representations conferred by subsection (3) above, the Secretary of State shall furnish the complainant and British Shipbuilders each with a copy of the report of the person appointed under that subsection, and a statement of the conclusions reached by the Secretary of State on considering the report.

#### 48 **Duty of the Corporations to consult etc. with Northern Ireland state-controlled bodies.**

- (1) In carrying out their . . . <sup>F13</sup> functions, . . . <sup>F13</sup> British Shipbuilders shall . . . <sup>F13</sup> have full regard to the need to consult, and wherever possible co-ordinate their activities with those of, any company incorporated in Northern Ireland which is engaged in one or more of the relevant activities and at any general meeting of which the Crown is entitled to exercise or to control the exercise of at least one third of the voting power.
- (2) In subsection (1) above “relevant activities” means—
  - (a) . . . . . <sup>F14</sup>
  - (b) in relation to British Shipbuilders, the activities specified in [<sup>F15</sup>section 3(1) (a) and (b) above].

##### **Textual Amendments**

**F13** Words repealed by [British Aerospace Act 1980 \(c. 26, SIF 64\), s. 15\(2\), Sch. 3](#)

**F14** S. 48(2)(a) repealed by [British Aerospace Act 1980 \(c. 26, SIF 64\), s. 15\(2\), Sch. 3](#)

**F15** Words substituted by [British Aerospace Act 1983 \(c. 15, SIF 64\), s. 1\(5\)](#)

##### **Modifications etc. (not altering text)**

**C3** S. 48 amended by [British Aerospace Act 1980 \(c. 26, SIF 64\), s. 10\(1\)](#)

#### *Pensions etc.*

#### 49 **Provisions as to pension rights. E+W+S**

- (1) Each Corporation may, in the case of such of the persons who are or have been employed by the Corporation or any of its wholly owned subsidiaries as it may determine,—
  - (a) pay such pensions to or in respect of those persons,
  - (b) make such payments towards the provision of such pensions, or
  - (c) establish and maintain such schemes for the payment of such pensions,
 as it may determine.
- (2) A scheme under subsection (1) above may provide that, subject to subsection (3) below, where a person participating in the scheme as an employee of a Corporation

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or any of its wholly owned subsidiaries becomes a member of that Corporation, his service as a member shall be treated for the purposes of the scheme as if it were service as an employee.

- (3) To the extent that a scheme under subsection (1) above provides that any description of benefit may, or may in particular circumstances, be conferred on a person only on the request or with the consent of a Corporation, the scheme may not make the provision referred to in subsection (2) above unless it also provides that, except with the approval of the Secretary of State and the Minister for the Civil Service, no such request or consent shall be made or given in the case of a benefit for or in respect of a member of the Corporation.
- (4) Subject to subsection (6) below, the Secretary of State may by regulations made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, make, in relation to any pension scheme not made under subsection (1) above (in this section referred to as an “existing scheme”) which provides for pensions to or in respect of persons who are or have been employed by a company which becomes a wholly owned subsidiary of either Corporation, such provision as appears to him to be expedient in consequence of its having become such a subsidiary.
- (5) Without prejudice to the generality of subsection (4) above, regulations under that subsection may make provision—
  - (a) for the complete or partial amalgamation of existing schemes either with other such schemes or with schemes established under subsection (1) above;
  - (b) for amending, repealing or revoking any existing schemes, any enactment relating to an existing scheme or to a scheme resulting from an amalgamation under paragraph (a) above or any trust deed, rules or other instrument made for the purposes of an existing scheme or of a scheme resulting from such an amalgamation;
  - (c) for the complete or partial transfer of liabilities and obligations under existing schemes or for reducing or extinguishing such liabilities or obligations;
  - (d) for the complete or partial transfer, or the winding-up, of any pension fund held for the purposes of an existing scheme; and
  - (e) for supplemental or consequential matters.
- (6) Nothing in subsection (4) or (5) above shall authorise the making of provision for the diversion of any pension fund to purposes other than the payment of pensions to or in respect of persons to whom subsection (1) above applies.
- (7) Subject to subsection (8) below, regulations under subsection (4) above shall be so framed as to secure that persons having pension rights under an existing scheme, whether such persons as are mentioned in subsection (1) of this section or not, are not placed in any worse position by reason of the regulations.
- (8) Regulations under subsection (4) above may make exceptional provisions to meet cases in which, in connection with any provision made by this Act or in anticipation of the making of any such provision, pension rights have been created otherwise than in the ordinary course.
- (9) Regulations under subsection (4) above shall not be invalid by reason that in fact they fail to secure the result referred to in subsection (7) above but, if the Secretary of State is satisfied that they have failed to secure it, or it is so determined as hereinafter mentioned, the Secretary of State shall as soon as possible make the necessary amending regulations.

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- (10) Any question whether or not the result referred to in subsection (7) above has been secured by regulations under subsection (4) above, including any question whether it has been secured by amending regulations under that subsection made in pursuance of subsection (9) above, shall be referred to and determined by [<sup>F16</sup>an [<sup>F17</sup>employment tribunal] or, as the case may require, a tribunal established under], [<sup>F18</sup>Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996].
- (11) Regulations under subsection (4) above may be made so as to have effect from a date prior to the making thereof, so, however, that so much of any regulations as provide that any provision thereof is to have effect from a date prior to the making thereof shall not place any person other than a Corporation or its wholly owned subsidiary in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.
- (12) Where, by reason of any provision in regulations made under subsection (4) above, other than a provision expressed to be made to meet a case such as is mentioned in subsection (8) above, loss is suffered by any person who is liable to make contributions or to pay pensions under an existing scheme (other than a wholly owned subsidiary of the relevant Corporation) the relevant Corporation shall pay compensation to that person in respect of the loss, and the amount thereof shall, in default of agreement between the Corporation and that person, be determined by arbitration under this Act.
- (13) . . . . . <sup>F19</sup>
- (14) The power to make regulations under subsection (4) above includes power to provide by those regulations—
- (a) for the determination of questions of fact or of law which may arise in giving effect to the regulations, and
  - (b) for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions, including—
    - (i) provision as to the mode of proof of any matters,
    - (ii) provision as to parties and their representation,
    - (iii) provision for the right to appear and be heard (as well in court proceedings as otherwise) of the Secretary of State or other authorities, and
    - (iv) provision as to awarding costs of proceedings (other than court proceedings) for the determination of such questions, determining the amount thereof and the enforcement of awards thereof.
- (15) References in this section to employment by a wholly owned subsidiary of a Corporation include references—
- (a) to employment before the date of transfer by a company which becomes such a subsidiary; and
  - (b) to employment under an agreement for the rendering of personal services which ceased to be in force before the date of transfer of a company and under which, had it remained in force on that date, rights or liabilities would, by virtue of section 20 above, have vested in that company.



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#### Extent Information

- E1** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F16** Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16](#), para. 28 and said substitution continued (E.W.S) (22.8.1996) by 1996 c. 17, ss. 43, 46, [Sch. 1 para. 5](#) (with s. 38).
- F17** Words in s. 49(10) substituted (1.8.1998) by 1998 c. 8, [s. 1\(2\)\(a\)](#) (with s. 16(2)); S.I. 1998/1658, art. 2(1), [Sch. 1](#)
- F18** Words in s. 49(10) substituted (24.9.1996) by virtue of S.I. 1996/1921 (N.I. 18), art. 26, [Sch. 1 para. 6](#).
- F19** S. 49(13) repealed by [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), s. 15(2), [Sch. 3](#).

#### Modifications etc. (not altering text)

- C4** S. 49 amended by [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), [s. 10\(1\)](#).

## 49 Provisions as to pension rights. **N.I.**

- (1) Each Corporation may, in the case of such of the persons who are or have been employed by the Corporation or any of its wholly owned subsidiaries as it may determine,—
- pay such pensions to or in respect of those persons,
  - make such payments towards the provision of such pensions, or
  - establish and maintain such schemes for the payment of such pensions,
- as it may determine.
- (2) A scheme under subsection (1) above may provide that, subject to subsection (3) below, where a person participating in the scheme as an employee of a Corporation or any of its wholly owned subsidiaries becomes a member of that Corporation, his service as a member shall be treated for the purposes of the scheme as if it were service as an employee.
- (3) To the extent that a scheme under subsection (1) above provides that any description of benefit may, or may in particular circumstances, be conferred on a person only on the request or with the consent of a Corporation, the scheme may not make the provision referred to in subsection (2) above unless it also provides that, except with the approval of the Secretary of State and the Minister for the Civil Service, no such request or consent shall be made or given in the case of a benefit for or in respect of a member of the Corporation.
- (4) Subject to subsection (6) below, the Secretary of State may by regulations made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, make, in relation to any pension scheme not made under subsection (1) above (in this section referred to as an “existing scheme”) which provides for pensions to or in respect of persons who are or have been employed by a company which becomes a wholly owned subsidiary of either Corporation, such provision as appears to him to be expedient in consequence of its having become such a subsidiary.
- (5) Without prejudice to the generality of subsection (4) above, regulations under that subsection may make provision—

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- (a) for the complete or partial amalgamation of existing schemes either with other such schemes or with schemes established under subsection (1) above;
  - (b) for amending, repealing or revoking any existing schemes, any enactment relating to an existing scheme or to a scheme resulting from an amalgamation under paragraph (a) above or any trust deed, rules or other instrument made for the purposes of an existing scheme or of a scheme resulting from such an amalgamation;
  - (c) for the complete or partial transfer of liabilities and obligations under existing schemes or for reducing or extinguishing such liabilities or obligations;
  - (d) for the complete or partial transfer, or the winding-up, of any pension fund held for the purposes of an existing scheme; and
  - (e) for supplemental or consequential matters.
- (6) Nothing in subsection (4) or (5) above shall authorise the making of provision for the diversion of any pension fund to purposes other than the payment of pensions to or in respect of persons to whom subsection (1) above applies.
  - (7) Subject to subsection (8) below, regulations under subsection (4) above shall be so framed as to secure that persons having pension rights under an existing scheme, whether such persons as are mentioned in subsection (1) of this section or not, are not placed in any worse position by reason of the regulations.
  - (8) Regulations under subsection (4) above may make exceptional provisions to meet cases in which, in connection with any provision made by this Act or in anticipation of the making of any such provision, pension rights have been created otherwise than in the ordinary course.
  - (9) Regulations under subsection (4) above shall not be invalid by reason that in fact they fail to secure the result referred to in subsection (7) above but, if the Secretary of State is satisfied that they have failed to secure it, or it is so determined as hereinafter mentioned, the Secretary of State shall as soon as possible make the necessary amending regulations.
  - (10) Any question whether or not the result referred to in subsection (7) above has been secured by regulations under subsection (4) above, including any question whether it has been secured by amending regulations under that subsection made in pursuance of subsection (9) above, shall be referred to and determined by [<sup>F35</sup>an industrial tribunal or, as the case may require, a tribunal established under], [<sup>F36</sup>Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996].
  - (11) Regulations under subsection (4) above may be made so as to have effect from a date prior to the making thereof, so, however, that so much of any regulations as provide that any provision thereof is to have effect from a date prior to the making thereof shall not place any person other than a Corporation or its wholly owned subsidiary in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.
  - (12) Where, by reason of any provision in regulations made under subsection (4) above, other than a provision expressed to be made to meet a case such as is mentioned in subsection (8) above, loss is suffered by any person who is liable to make contributions or to pay pensions under an existing scheme (other than a wholly owned subsidiary of the relevant Corporation) the relevant Corporation shall pay compensation to that person in respect of the loss, and the amount thereof shall, in default of agreement between the Corporation and that person, be determined by arbitration under this Act.

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- (13) ..... F37
- (14) The power to make regulations under subsection (4) above includes power to provide by those regulations—
- (a) for the determination of questions of fact or of law which may arise in giving effect to the regulations, and
  - (b) for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions, including—
    - (i) provision as to the mode of proof of any matters,
    - (ii) provision as to parties and their representation,
    - (iii) provision for the right to appear and be heard (as well in court proceedings as otherwise) of the Secretary of State or other authorities, and
    - (iv) provision as to awarding costs of proceedings (other than court proceedings) for the determination of such questions, determining the amount thereof and the enforcement of awards thereof.
- (15) References in this section to employment by a wholly owned subsidiary of a Corporation include references—
- (a) to employment before the date of transfer by a company which becomes such a subsidiary; and
  - (b) to employment under an agreement for the rendering of personal services which ceased to be in force before the date of transfer of a company and under which, had it remained in force on that date, rights or liabilities would, by virtue of section 20 above, have vested in that company.

#### Extent Information

**E3** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

#### Textual Amendments

**F35** Words substituted by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 16](#), para. 28 and said substitution continued (E.W.S) (22.8.1996) by [1996 c. 17](#), ss. 43, 46, [Sch. 1 para. 5](#) (with s. 38).

**F36** Words in s. 49(10) substituted (24.9.1996) by virtue of [S.I. 1996/1921 \(N.I. 18\)](#), art. 26, [Sch. 1 para. 6](#).

**F37** S. 49(13) repealed by [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), s. 15(2), [Sch. 3](#).

#### Modifications etc. (not altering text)

**C7** S. 49 amended by [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), s. 10(1).

**F20**<sup>50</sup> **Compensation for loss of employment, emoluments or pension rights.** **E+W+S**

#### Extent Information

**E2** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Aircraft and Shipbuilding Industries Act 1977 (repealed), Part III. (See end of Document for details)*

#### Textual Amendments

**F20** S. 50 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 16](#) Group 1

#### Modifications etc. (not altering text)

**C5** By [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), [s. 10\(1\)](#) it is provided that s. 50 is repealed in relation to British Aerospace and that any reference in that provision (in whatever terms expressed) to either or both of the Corporations originally established by s. 1 of this Act shall be construed as a reference to the other Corporation so established (that is to say British Shipbuilders)

### <sup>F20</sup>**50 Compensation for loss of employment, emoluments or pension rights. N.I.**

.....

#### Extent Information

**E4** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

#### Textual Amendments

**F20** S. 50 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 16](#) Group 1

#### Modifications etc. (not altering text)

**C8** By [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), [s. 10\(1\)](#) it is provided that s. 50 is repealed in relation to British Aerospace and that any reference in that provision (in whatever terms expressed) to either or both of the Corporations originally established by s. 1 of this Act shall be construed as a reference to the other Corporation so established (that is to say British Shipbuilders)

### *Information*

### <sup>F21</sup>**51 Furnishing of information to the Secretary of State.**

.....

#### Textual Amendments

**F21** [S. 51](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 16](#) Group 1

### **52 Restriction on disclosure of information.**

- (1) No information obtained under section 51 above shall be disclosed except—
- (a) with the consent of the person carrying on the undertaking or business to which related the books, records or other documents from which it was obtained, or
  - (b) for the purpose of enabling a Corporation or the Secretary of State to discharge their functions under this Act, or
  - (c) with a view to the institution of, or otherwise for the purpose of, any criminal proceedings pursuant to, or arising out of, this Act.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Aircraft and Shipbuilding Industries Act 1977 (repealed), Part III. (See end of Document for details)*

- (2) If a disclosure is made by a person in contravention of subsection (1) above, he shall be guilty of an offence and shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £200, or both; and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

*Liabilities, etc.*

**53 Liabilities of Corporations etc.**

- (1) If any sum required by any judgment or order to be paid by a company which at the time of the judgment or order is a wholly owned subsidiary of a Corporation . . . <sup>F22</sup> is not paid by the company within the period of 14 days beginning on the date on which execution becomes leviable to enforce the judgment or order, the Corporation shall be liable to pay that sum and that judgment or order shall be enforceable against the Corporation accordingly.
- (2) . . . . . <sup>F23</sup>
- (3) When a company becomes a wholly owned subsidiary of a Corporation, any person to whom this subsection applies and who is liable in respect of any debt or liability of the company under a contract of guarantee or indemnity made before the company became such a subsidiary shall cease to be so liable.
- (4) The persons to whom subsection (3) above applies are persons who, immediately before the company became a wholly owned subsidiary of the Corporation,—
- (a) were associated persons, or
  - (b) controlled some other company or body corporate which controlled it.
- (5) The assets of an acquired company or of any wholly-owned subsidiary of such a company shall be released, upon the date of transfer of that company, from all charges to which they are subject immediately before that date.
- (6) Subject to subsection (7) below, no person shall, in respect of a loan,—
- (a) become entitled to exercise any right, or
  - (b) become subject to any obligation,
- on the ground—
- (i) of the passing of this Act, or
  - (ii) of anything done by virtue of this Act, or
  - (iii) of anything done following the passing of this Act in relation to an acquired company or a wholly owned subsidiary of such a company, or
  - (iv) of anything necessarily resulting from the passing of this Act or from anything done as mentioned in paragraph (ii) or (iii) above.
- (7) Subsection (6) above shall not have effect—
- (a) in relation to any right vested in a person to whom subsection (3) above applies in respect of a loan made by him after the last of the relevant days to an acquired company, or a wholly owned subsidiary of such a company or
  - (b) in relation to any obligation owed to such a person by the debtor in respect of such a loan.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Aircraft and Shipbuilding Industries Act 1977 (repealed), Part III. (See end of Document for details)*

#### **Textual Amendments**

- F22** Words repealed (with saving) by [British Shipbuilders Act 1983 \(c. 15, SIF 64\)](#), ss. 2(4), 3(3), [Sch.](#)  
**F23** S. 53(2) repealed (with saving) by [British Shipbuilders Act 1983 \(c. 15, SIF 64\)](#), ss. 2(4), 3(3), [Sch.](#)

#### **Modifications etc. (not altering text)**

- C6** By [British Aerospace Act 1980 \(c. 26, SIF 64\)](#), [s. 10\(1\)](#) it is provided that s. 53 is repealed in relation to British Aerospace and that any reference in that provision (in whatever terms expressed) to either or both of the Corporations originally established by s. 1 of this Act shall be construed as a reference to the other Corporation so established (that is to say British Shipbuilders)

### *General*

#### **54 Service of notices.**

- (1) This section shall have effect in relation to any notice or other document required or authorised by or under this Act to be given to or served on any person.
- (2) Any such document may be given to or served on the person in question—
  - (a) by delivering it to him, or
  - (b) by leaving it at his proper address, or
  - (c) <sup>F24</sup> ... <sup>F24</sup> ... <sup>F24</sup> ... by sending it by post to him at that address, <sup>F24</sup> ...
  - <sup>F25</sup>(d) .....
- (3) Any such document may—
  - (a) in the case of a body corporate, be given to or served on the secretary or clerk of that body;
  - (b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.
- (4) For the purposes of this section and section 26 of the <sup>M3</sup>Interpretation Act 1889 (service of documents by post) in its application to this section, the proper address of any person to or on whom a document is to be given or served shall be his last known address, except that—
  - (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
  - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.

- (5) If the person to be given or served with any document mentioned in subsection (1) above has specified an address within the United Kingdom other than his proper address within the meaning of subsection (4) above as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this section and section 26 of the Interpretation Act 1889 as his proper address.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Aircraft and Shipbuilding Industries Act 1977 (repealed), Part III. (See end of Document for details)*

- (6) If the name or address of any person having an interest in premises to or on whom any document mentioned in subsection (1) above is to be given or served cannot after reasonable enquiry be ascertained, the document may be given or served—
- (a) by addressing it to him either by name or by the description of “the owner” or, as the case may be, “the occupier” of the premises and describing them, and
  - (b) either by delivering it to some responsible person on the premises or by affixing it, or a copy of it, to some conspicuous part of the premises.

#### Textual Amendments

- F24** Words in s. 54(2)(c) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 16](#) Group 1
- F25** S. 54(2)(d) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 16](#) Group 1

#### Marginal Citations

- M3** [1889 c. 63.](#)

## 55 Administrative expenses.

Any administrative expenses incurred by the Secretary of State in connection with the provisions of this Act shall be defrayed out of moneys provided by Parliament.

## 56 Interpretation.

- (1) In this Act, except where the context otherwise requires,—
- “accounting year” shall be construed in accordance with section 17 of this Act;
- “acquired company” means—
- (a) a company falling within Part I of Schedule 1 or Schedule 2 to this Act, or
  - (b) a company in respect of which the obligation to give notice under section 26(9) above has arisen, other than an excluded company;
- “aircraft industry vesting date” means such date as the Secretary of State may by order made by statutory instrument specify for the purposes of section 19(1) of this Act;
- “associated person”, in relation to a company or its wholly owned subsidiary, means—
- (a) a person who controls the company, or
  - (b) a body corporate controlled by a person who also controls the company;
- “the Corporations” means British Aerospace and British Shipbuilders, and references to a Corporation shall be construed accordingly;
- “date of transfer” shall be construed in accordance with subsection (5) below;
- “enactment” includes an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly;
- “equity share capital” has the meaning assigned to it by <sup>F26</sup>section 548 of the Companies Act 2006];
- “excluded company” has the meaning assigned to it by section 27(11) above;

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“functions” includes powers and duties;

“group of companies” means a company and all other companies which are its subsidiaries;

“guided weapon” does not include a torpedo;

“holding company” shall be construed in accordance with [F27 section 1159 of the Companies Act 2006];

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“loan capital”, in relation to any company, means the securities of the company which do not form part of the share capital;

“mortgage” in relation to Scotland, means a heritable security within the meaning of section 9(8) of the M4 Conveyancing and Feudal Reform (Scotland) Act 1970;

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... ..

“notice of disclaimer” has the meaning assigned to it by section 31(6) above;

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... ..

“pension”, in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions or insurance premiums to a pension fund with or without interest or any other addition;

“pension rights” includes all forms of right to or eligibility for, the present or future payment of a pension to or in respect of a person, and any expectation of the accruer of a pension to or in respect of a person under any customary practice, and also includes a right of allocation in respect of the present or future payment of a pension;

“pension scheme” includes any form of arrangements for the payment of pensions, whether subsisting by virtue of an Act, trust, contract or otherwise, and also includes any customary practice under which pensions are paid;

“public dividend capital” and “public dividends” have the meaning assigned to them by section 16 of this Act;

“the relevant Corporation”, in relation to a company which comes into public ownership, or in relation to any securities of such a company, means the Corporation in which vest, on the date of transfer, the securities of that company or of the company of which it is a wholly owned subsidiary;

“the relevant days” means 27th December 1973 and every Wednesday, other than 26th December 1973, in the period of 6 months beginning on 1st September 1973;

“relevant trade union”, in relation to either Corporation, means any independent trade union, [F29 within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992], which the Corporation or any of its wholly owned subsidiaries recognises for the purposes of collective bargaining, [F29 within the meaning of that Act], . . . F30

“the relevant vesting date” means—

- (a) in relation to British Aerospace or a company which becomes, or would but for the provisions of section 27 of this Act become, a wholly owned subsidiary of British Aerospace, the aircraft industry vesting date, and



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- (b) in relation to British Shipbuilders or a company which becomes, or would but for the provisions of section 27 of this Act become, a wholly owned subsidiary of British Shipbuilders, the shipbuilding industry vesting date;

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... ..  
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... ..

“securities”, in relation to a company, means any shares, debentures, debenture stock, loan stock, income notes, income stock, funding certificates and securities of a like nature;

“share” includes stock resulting from the conversion of any share into stock;

“shipbuilding industry vesting date” means such date as the Secretary of State may by order made by statutory instrument specify for the purposes of section 19(2) of this Act;

“shipyard” includes any berth, dock or slipway used for the construction of ships;

“stockholders’ representative” means, in relation to a company or the securities of a company, the individual appointed under section 41 of this Act to represent the holders of securities of that company;

“subsidiary” has [F31the meaning given by] s[F27] section 1159 of the Companies Act 2006];

“voting power” does not include voting rights which arise only in limited circumstances;

“wholly owned subsidiary” has the same meaning as it has for the purposes of [F32section 1159 of the Companies Act 2006]; and

“works” means, subject to subsection (6) below,—

- (a) any factory, within the meaning of the M5Factories Act 1961,  
(b) any aerodrome, as defined in [F33section 105(1) of the Civil Aviation Act 1982],  
(c) any shipyard which does not fall within paragraph (a) above, and  
(d) any premises used by way of trade or business for the purposes of the storage, transport or distribution of any articles or for the supply of electricity or other form of power,

together with any machinery or equipment installed in any such factory, shipyard or premises and any land occupied for the purposes referred to in paragraph (d) above.

- (2) For the purposes of this Act, in relation to land in England, Wales or Northern Ireland,

- (a) “own” includes hold on lease;  
(b) “rights of ownership” means an estate in fee simple or a lease; and  
(c) property owned by a member of a partnership and held by him for the purposes of the partnership shall be deemed to be owned by each of the members of the partnership.

- (3) For the purposes of this Act, in relation to land in Scotland,—

- (a) “own” includes hold on lease;  
(b) [F34“rights of ownership” means the rights—  
(i) of an owner; or  
(ii) of a tenant under a lease;]

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- (c) property owned by a member of a partnership and held by him for the purposes of the partnership shall be deemed to be owned by the firm.
- (4) Any reference in this Act to a company which comes into public ownership is a reference to an acquired company or a company which, on the date of transfer of an acquired company, is a wholly owned subsidiary of that company; and any reference to a company coming into public ownership shall be construed accordingly.
- (5) Subject to section 27(7)(b) of this Act, in relation to a company which comes into public ownership, any reference in this Act to the date of transfer is a reference—
- (a) in the case of a company falling within Part I of Schedule 1 or Schedule 2 to this Act or the wholly owned subsidiary of such a company, to the relevant vesting date; and
  - (b) in the case of any other company which comes into public ownership, to the date on which the securities of the company or, as the case may be, of the company of which it is a wholly owned subsidiary vest in a Corporation by virtue of section 26 above.
- (6) For the purposes of this Act—
- (a) notwithstanding anything in subsection (1) above, the expression “works” does not include any factory, aerodrome, shipyard or other premises or land situated outside the United Kingdom;
  - (b) the extension, alteration or re-equipment of any works or the replacement of any machinery or equipment therein shall not be deemed to change the identity of the works; and
  - (c) in determining whether a company is operating any works at a particular time, any temporary closing of the works at that time owing to holidays, repairs or for any other reason shall be disregarded.
- (7) For the purposes of this Act the securities of a company to which the same rights attach shall be deemed to constitute a class of securities, and the date of issue of any securities shall be deemed to be the date on which a resolution allotting those securities is passed.
- (8) For the purposes of this Act a person controls a company or other body corporate if he is entitled to exercise or to control the exercise of at least one third of the voting power at any general meeting of that body corporate.

#### Textual Amendments

- F26** Words in s. 56(1) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 36\(3\)\(a\)](#) (with art. 10)
- F27** Words in s. 56(1) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 36\(3\)\(b\)](#) (with art. 10)
- F28** S. 56(1) entries repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 16](#) Group 1
- F29** Words in s. 56(1) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(2), 302, [Sch. 2 para. 8\(3\)\(a\)\(b\)](#).
- F30** Words repealed by [Employment Act 1980 \(c. 42, SIF 43:5\)](#), s. 20(3), [Sch. 2](#)
- F31** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 144(4), 213(2), [Sch. 18 para. 16](#) (subject to the transitional provisions referred to in [S.I. 1990/1392](#), [arts. 2\(d\), 6](#))

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*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Aircraft and Shipbuilding Industries Act 1977 (repealed), Part III. (See end of Document for details)*

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- F32** Words in s. 56(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 36(3)(c)** (with art. 10)
- F33** Words substituted by Civil Aviation Act 1982 (c. 16, SIF 9), s. 109(2), **Sch. 15 para. 18**
- F34** S. 56(3)(b) substituted (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **Sch. 12 paras. 38** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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**Marginal Citations**

- M4** 1970 c. 35.  
**M5** 1961 c. 34.

**57 Short title and extent.**

- (1) This Act may be cited as the Aircraft and Shipbuilding Industries Act 1977.
- (2) This Act extends to Northern Ireland.

**Status:**

Point in time view as at 01/10/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Aircraft and Shipbuilding Industries Act 1977 (repealed), Part III.