



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART V

#### INDUSTRIAL ACTION

#### *<sup>F1</sup>Minimum service levels for certain services*

#### Textual Amendments

- F1** Ss. 234B-234G and cross-heading inserted (20.7.2023) by [Strikes \(Minimum Service Levels\) Act 2023](#) (c. 39), s. 5, [Sch. para. 2](#)

#### **234B Power of Secretary of State to specify minimum service levels**

- (1) The Secretary of State may, for the purpose of enabling work notices under section 234C to be given, make provision by regulations for levels of service in relation to strikes as respects relevant services (“minimum service regulations”).
- (2) Minimum service regulations may be framed so as to have effect in relation to any strike that takes place after the day on which the regulations come into force, even if—
  - (a) notice of the strike under section 234A was given on or before the day on which the regulations come into force, or
  - (b) the date of the ballot in respect of the strike was on or before the day on which the Strikes (Minimum Service Levels) Act 2023 comes into force.
- (3) In this Part, “relevant services” has the meaning given by regulations made by the Secretary of State.
- (4) Regulations under subsection (3) may specify only services that fall within any of the following categories—
  - (a) health services;

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**Changes to legislation:** Trade Union and Labour Relations (Consolidation) Act 1992, Cross Heading: Minimum service levels for certain services is up to date with all changes known to be in force on or before 28 April 2024.

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- (b) fire and rescue services;
- (c) education services;
- (d) transport services;
- (e) decommissioning of nuclear installations and management of radioactive waste and spent fuel;
- (f) border security.

### **234C Work notices relating to minimum service levels**

- (1) Where minimum service regulations have been made as respects a relevant service, an employer may give a work notice to a trade union in relation to any strike—
  - (a) of which the union gives notice to the employer under section 234A, and
  - (b) which relates to the provision of the service.
- (2) In this Part “work notice” means a notice in writing that levels of service under minimum service regulations are to apply in relation to a strike.
- (3) A work notice must be given within the period beginning with the day on which the notice under section 234A is given and ending with—
  - (a) the 7th day before the earliest strike date to which it relates, or
  - (b) any later day that is agreed between the employer and the union.
- (4) A work notice must—
  - (a) identify the persons required to work during the strike in order to secure that the levels of service under the minimum service regulations are provided, and
  - (b) specify the work required to be carried out by them during the strike in order to secure that those levels of service are provided.
- (5) A work notice must not identify more persons than are reasonably necessary for the purpose of providing the levels of service under the minimum service regulations.
- (6) In deciding whether to identify a person in a work notice, the employer must not have regard to—
  - (a) whether the person is or is not a member of a trade union,
  - (b) whether the person has or has not—
    - (i) taken part in the activities of a trade union, or
    - (ii) made use of services made available to the person by a trade union by virtue of the person’s membership of the union, or
  - (c) whether or not—
    - (i) a matter has been raised on the person’s behalf (with or without the person’s consent), or
    - (ii) the person has consented to the raising of a matter on the person’s behalf,by a trade union of which the person is a member.
- (7) In subsection (6) “a trade union” includes—
  - (a) a particular trade union, and
  - (b) a particular branch or section of a particular trade union.
- (8) Before giving a work notice, the employer must—

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- (a) consult the union about the number of persons to be identified and the work to be specified in the notice, and
  - (b) have regard to any views expressed by the union in response.
- (9) The employer may vary a work notice, so far as relating to a strike date, and give the notice as varied to the trade union—
- (a) before the end of the 4th day before the strike date, or
  - (b) before the end of any later day that is agreed between the employer and the union.
- (10) Before varying a work notice the employer must—
- (a) consult the union about the variation, so far as it relates to the matters mentioned in subsection (8)(a), and
  - (b) have regard to any views expressed by the union in response.
- (11) For the purposes of this section, where a strike takes place over more than one day (continuously or discontinuously) each day is to be treated as a separate “strike date”.

#### **234D Work notices: disclosure of information**

- (1) Except as provided by subsection (2), a disclosure of information authorised by section 234C does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (2) Section 234C does not authorise a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, that section is to be taken into account).
- (3) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

#### **234E Work notices: no protection if union fails to take reasonable steps**

- (1) Where an employer gives a trade union a work notice in relation to a strike, an act done by the union to induce a person to take part, or to continue to take part, in the strike is not protected as respects that person’s employer if—
- (a) the work notice is given in accordance with section 234C, and
  - (b) the union fails to take reasonable steps to ensure that all members of the union who are identified in the work notice comply with the notice.
- (2) In proceedings in tort that are brought against a trade union in reliance on paragraph (b) of subsection (1), any loss that would have been suffered even if the union had taken the reasonable steps mentioned in that paragraph is to be disregarded in calculating any amount to be awarded against the union by way of damages.

#### **234F Regulations: consultation and supplementary**

- (1) Before making regulations under section 234B the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (2) A power to make regulations under section 234B includes power to make—
- (a) consequential, supplementary, incidental, transitional or saving provision;

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- (b) different provision for different purposes or areas.
- (3) Regulations under section 234B are to be made by statutory instrument.
- (4) A statutory instrument containing such regulations (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Subsection (1) may be satisfied by consultation before the passing of the Strikes (Minimum Service Levels) Act 2023 (as well as by consultation after that time).

### **234G Interpretation of terms relating to minimum service levels**

- (1) In this Part—
  - “minimum service regulations” means regulations under section 234B(1);
  - “relevant service” is to be read in accordance with section 234B(3);
  - “work notice” has the meaning given by section 234C(2).
- (2) Section 229(2A) (overtime ban and call-out ban to constitute action short of a strike) applies for the purposes of sections 234B to 234F as it applies for the purposes of section 229(2).]

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212A(1)(zb) inserted by [2023 c. 46 Sch. para. 1](#)