



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART IV

INDUSTRIAL RELATIONS

CHAPTER II

PROCEDURE FOR HANDLING REDUNDANCIES

Duty of employer to consult^{F1} . . . representatives

188 Duty of employer to consult^{F1} . . . representatives.

[^{F2}(1) Where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the employer shall consult about the dismissals all the persons who are appropriate representatives of any of the employees who may be [^{F3}affected by the proposed dismissals or may be affected by measures taken in connection with those dismissals.]

(1A) The consultation shall begin in good time and in any event—

- (a) where the employer is proposing to dismiss 100 or more employees as mentioned in subsection (1), at least [^{F4}45 days] , and
- (b) otherwise, at least 30 days,

before the first of the dismissals takes effect.

^{F5}[For the purposes of this section the appropriate representatives of any affected (1B) employees are—

- (a) if the employees are of a description in respect of which an independent trade union is recognised by their employer, representatives of the trade union, or

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- (b) in any other case, whichever of the following employee representatives the employer chooses:—
 - (i) employee representatives appointed or elected by the affected employees otherwise than for the purposes of this section, who (having regard to the purposes for and the method by which they were appointed or elected) have authority from those employees to receive information and to be consulted about the proposed dismissals on their behalf;
 - (ii) employee representatives elected by the affected employees, for the purposes of this section, in an election satisfying the requirements of section 188A(1).]
- (2) The consultation shall include consultation about ways of—
 - (a) avoiding the dismissals,
 - (b) reducing the numbers of employees to be dismissed, and
 - (c) mitigating the consequences of the dismissals,
 and shall be undertaken by the employer with a view to reaching agreement with the appropriate representatives.]
- (3) In determining how many employees an employer is proposing to dismiss as redundant no account shall be taken of employees in respect of whose proposed dismissals consultation has already begun.
- (4) For the purposes of the consultation the employer shall disclose in writing to the [F6appropriate] representatives—
 - (a) the reasons for his proposals,
 - (b) the numbers and descriptions of employees whom it is proposed to dismiss as redundant,
 - (c) the total number of employees of any such description employed by the employer at the establishment in question,
 - (d) the proposed method of selecting the employees who may be dismissed, F7 . . .
 - (e) the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect. F8[F9 ...
 - (f) the proposed method of calculating the amount of any redundancy payments to be made (otherwise than in compliance with an obligation imposed by or by virtue of any enactment) to employees who may be dismissed.]
 - [F10(g) the number of agency workers working temporarily for and under the supervision and direction of the employer,
 - (h) the parts of the employer's undertaking in which those agency workers are working, and
 - (i) the type of work those agency workers are carrying out.]
- (5) That information shall be [F11given to each of the appropriate representatives by being delivered to them], or sent by post to an address notified by them to the employer, or [F12(in the case of representatives of a trade union)] sent by post to the union at the address of its head or main office.
- [F13(5A) The employer shall allow the appropriate representatives access to [F14the affected employees] and shall afford to those representatives such accommodation and other facilities as may be appropriate.]

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^{F15}(6)

(7) If in any case there are special circumstances which render it not reasonably practicable for the employer to comply with a requirement of subsection [^{F16}(1A), (2) or (4)], the employer shall take all such steps towards compliance with that requirement as are reasonably practicable in those circumstances. [^{F17}Where the decision leading to the proposed dismissals is that of a person controlling the employer (directly or indirectly), a failure on the part of that person to provide information to the employer shall not constitute special circumstances rendering it not reasonably practicable for the employer to comply with such a requirement.]

[^{F18}(7A) Where—

[the employer has invited any of the affected employees to elect employee
^{F19}(a) representatives, and]

(b) the invitation was issued long enough before the time when the consultation is required by subsection (1A)(a) or (b) to begin to allow them to elect representatives by that time,

the employer shall be treated as complying with the requirements of this section in relation to those employees if he complies with those requirements as soon as is reasonably practicable after the election of the representatives.]

[^{F20}(7B) If, after the employer has invited affected employees to elect representatives, the affected employees fail to do so within a reasonable time, he shall give to each affected employee the information set out in subsection (4).]

(8) This section does not confer any rights on a trade union [^{F21}, a representative] or an employee except as provided by sections 189 to 192 below.

Textual Amendments

- F1** Words in sidenote to s. 188 omitted (26.10.1995) by virtue of [S.I. 1995/2587, reg. 3\(10\)](#)
- F2** S. 188(1)(1A)(1B)(2) substituted for s. 188(1)(2) (26.10.1995) by [S.I. 1995/2587, reg. 3\(2\)](#)
- F3** Words in s. 188(1) substituted (28.7.1999 subject to reg. 2(2) of commencing S.I.) by 1999/1925, regs. 2(2), 3(1)(2)
- F4** Words in s. 188(1A)(a) substituted (with application in accordance with art. 2 of the amending S.I.) by [The Trade Union and Labour Relations \(Consolidation\) Act 1992 \(Amendment\) Order 2013 \(S.I. 2013/763\)](#), arts. 1, [3\(2\)](#)
- F5** S. 188(1B) substituted (28.7.1999 subject to reg. 2(2) of commencing S.I.) by 1999/1925, regs. 3(1)(3)
- F6** Word in s. 188(4) substituted (26.10.1995) by [S.I. 1995/2587, reg. 3\(3\)](#)
- F7** Word in s. 188(4)(c) repealed (30.8.1993) by 1993 c. 19, s. 51, [Sch. 10](#); S.I. 1993/1908, art. 2(1), [Sch. 1](#)
- F8** Word in s. 188(4)(e) omitted (1.10.2011) by virtue of [The Agency Workers Regulations 2010 \(S.I. 2010/93\)](#), [reg. 1\(1\)](#), [Sch. 2 para. 4\(2\)](#)
- F9** S. 188(4)(f) and word preceeding it inserted (30.8.1993) by 1993 c. 19, s. [34\(2\)\(a\)](#); S.I. 1993/1908, art. 2(1), [Sch. 1](#)
- F10** S. 188(4)(g)-(i) added (1.10.2011) by [The Agency Workers Regulations 2010 \(S.I. 2010/93\)](#), [reg. 1\(1\)](#), [Sch. 2 para. 4\(3\)](#)
- F11** Words in s. 188(5) substituted (26.10.1995) by [S.I. 1995/2587, reg. 3\(4\)\(a\)](#)
- F12** Words in s. 188(5) inserted (26.10.1995) by [S.I. 1995/2587, reg. 3\(4\)\(b\)](#)
- F13** S. 188(5A) inserted (26.10.1995) by [S.I. 1995/2587, reg. 3\(5\)](#)
- F14** Words in s. 188(5A) substituted (28.7.1999 subject to reg. 2(2) of commencing S.I.) by 1999/1925, regs. 2(2), 3(1)(4)
- F15** S. 188(6) omitted (26.10.1995) by virtue of [S.I. 1995/2587, reg. 3\(6\)](#)

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| F16 | Words in s. 188(7) substituted (26.10.1995) by S.I. 1995/2587, reg. 3(7) |
| F17 | Words in s. 188(7) inserted (30.8.1993) by 1993 c. 19, s. 34(2)(c) ; S.I. 1993/1908, art. 2(1), Sch. 1 |
| F18 | S. 188(7A) inserted (26.10.1995) by S.I. 1995/2587, reg. 3(8) |
| F19 | S. 188(7A)(a) substituted (28.7.1999 subject to reg. 2(2) of commencing S.I.) by S.I. 1999/1925, regs. 2(2), 3(1)(5) |
| F20 | S. 188(7B) inserted (28.7.1999 subject to reg. 2(2) of commencing S.I.) by S.I. 1999/1925, regs. 2(2), 3(1)(6) |
| F21 | Words in s. 188(8) inserted (26.10.1995) by S.I. 1995/2587, reg. 3(9) |

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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](#)