



# Trade Union Reform and Employment Rights Act 1993

## 1993 CHAPTER 19

### PART III

#### OTHER EMPLOYMENT MATTERS

##### *Abolition of right to statutory minimum remuneration*

#### **35 Repeal of Part II of Wages Act 1986.**

Part II of the <sup>M1</sup>Wages Act 1986 (which provides for statutory minimum remuneration for certain workers in accordance with wages orders made by wages councils) shall cease to have effect.

#### **Marginal Citations**

**M1** 1986 c. 48.

##### *Constitution and jurisdiction of tribunals*

#### **36 Constitution of industrial tribunals.**

- (1) Section 128 of the 1978 Act (industrial tribunals) shall be amended as follows.
- (2) After subsection (2) there shall be inserted—

“(2A) Subject to the following provisions of this section, proceedings before an industrial tribunal shall be heard by—

- (a) the person who, in accordance with regulations made under subsection (1), is the chairman, and

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- (b) two other members, or (with the consent of the parties) one other member, selected as the other members (or member) in accordance with regulations so made.
- (2B) Subject to subsection (2F), the proceedings to which subsection (2C) applies shall be heard by the person specified in subsection (2A)(a) alone.
- (2C) This subsection applies to—
- (a) proceedings on an application under section 77, 78A or 79 of this Act or under section 161, 165 or 166 of the <sup>M2</sup>Trade Union and Labour Relations (Consolidation) Act 1992,
  - (b) proceedings on a complaint under section 124 of this Act or under section 5 of the Wages Act 1986,
  - (c) proceedings in respect of which an industrial tribunal has jurisdiction by virtue of an order under section 131,
  - (d) proceedings in which the parties have given their written consent to the proceedings being heard in accordance with subsection (2B) (whether or not they have subsequently withdrawn it),
  - (e) proceedings in which the person bringing the proceedings has given written notice withdrawing the case, and
  - (f) proceedings in which the person (or, where more than one, each of the persons) against whom the proceedings are brought does not, or has ceased to, contest the case.
- (2D) The Secretary of State may by order amend the provisions of subsection (2C).
- (2E) No order shall be made under subsection (2D) unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (2F) Proceedings to which subsection (2C) applies shall be heard in accordance with subsection (2A) if a person who, in accordance with regulations made under subsection (1), may be the chairman of an industrial tribunal, having regard to—
- (a) whether there is a likelihood of a dispute arising on the facts which makes it desirable for the proceedings to be heard in accordance with subsection (2A),
  - (b) whether there is a likelihood of an issue of law arising which would make it desirable for the proceedings to be heard in accordance with subsection (2B),
  - (c) any views of any of the parties as to whether or not the proceedings ought to be heard in accordance with either of those subsections, and
  - (d) whether there are other proceedings which might be heard concurrently but which are not proceedings to which subsection (2C) applies,
- decides (at any stage of the proceedings) that the proceedings are to be heard in accordance with subsection (2A).”
- (3) After subsection (4) there shall be inserted—
- “(5) Regulations made under Schedule 9 may provide that in such circumstances as the regulations may specify any act required or authorised by the regulations

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to be done by an industrial tribunal may be done by the person specified in subsection (2A)(a) alone.

- (6) Where a Minister of the Crown so directs in relation to any proceedings on grounds of national security, the proceedings shall be heard and determined, and any act required or authorised by regulations made under Schedule 9 to be done by an industrial tribunal in relation to the proceedings shall be done, by the President of Industrial Tribunals (England and Wales) appointed in accordance with regulations made under subsection (1), or the President of Industrial Tribunals (Scotland) so appointed, alone.”.

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

**C1** S. 36 restricted (15.10.1993) by S.I. 1993/2503, art.3.

#### Commencement Information

**I1** S. 36 wholly in force at 30.11.1993; s. 36 not in force at Royal Assent see s. 52; s. 36(3) in force for certain purposes at 30.8.1993 by S.I. 1993/1908, art. 2(1), Sch. 1; s. 36 in force 30.11.1993 so far as it is not already in force by S.I. 1993/2503, art. 2(2), Sch. 2.

#### Marginal Citations

**M2** 1992 c. 52.

### 37 Constitution of Employment Appeal Tribunal.

In Schedule 11 to the 1978 Act (Employment Appeal Tribunal), for paragraph 16 (Appeal Tribunal to consist of judge and two or four other members or, if parties consent, judge and one other member) there shall be substituted—

- “16 (1) Subject to sub-paragraphs (2) to (4), proceedings before the Appeal Tribunal shall be heard by a judge and either two or four appointed members, so that in either case there is an equal number of persons whose knowledge or experience of industrial relations is as representatives of employers and whose knowledge or experience of industrial relations is as representatives of workers.
- (2) With the consent of the parties proceedings before the Appeal Tribunal may be heard by a judge and one appointed member or by a judge and three appointed members.
- (3) Proceedings on an appeal on a question arising from any decision of, or arising in any proceedings before, an industrial tribunal consisting of the person specified in section 128(2A)(a) alone shall be heard by a judge alone unless a judge directs that the proceedings shall be heard in accordance with sub-paragraphs (1) and (2).
- (4) Where a Minister of the Crown so directs in relation to any proceedings on grounds of national security, the proceedings shall be heard by the President of the Appeal Tribunal alone.”.

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### **38 Extension of power to confer on industrial tribunals jurisdiction in respect of contracts of employment etc.**

In section 131 of the 1978 Act (power to confer on industrial tribunals jurisdiction in respect of claims for damages for breach of contract of employment and similar claims)—

- (a) for subsection (1) (appropriate Minister to have power to make order in respect of claims satisfying certain conditions) there shall be substituted—

“(1) The appropriate Minister may by order provide that proceedings in respect of—

(a) any claim to which this section applies, or

(b) any such claim of a description specified in the order,

may, subject to such exceptions (if any) as may be specified in the order, be brought before an industrial tribunal.”,

- (b) for subsection (3) there shall be substituted—

“(3) This section does not apply to a claim for damages, or for a sum due, in respect of personal injuries.”,

- (c) after subsection (4) (tribunal to order payment of amount which it finds due) there shall be inserted—

“(4A) An order under this section may provide that an industrial tribunal shall not in proceedings in respect of a claim, or a number of claims relating to the same contract, order the payment of an amount exceeding such sum as may be specified in the order as the maximum amount which a tribunal may order to be paid in relation to a claim or in relation to a contract.”,

- (d) after subsection (5) there shall be inserted—

“(5A) An order under this section may make different provision in relation to proceedings in respect of different descriptions of claims.”, and

- (e) in subsection (7), in the definition of appropriate Minister, for the words Secretary of State there shall be substituted the words “ Lord Advocate ”.

### **39 Agreements not to take proceedings before industrial tribunal.**

- (1) In section 140 of the 1978 Act (restrictions on contracting out)—

- (a) in subsection (2) (exceptions), after the paragraph (fa) inserted by paragraph 21 of Schedule 8 to this Act, there shall be inserted—

“(fb) to any agreement to refrain from instituting or continuing any proceedings specified in section 133(1) (except (c)) or 134(1) before an industrial tribunal if the conditions regulating compromise agreements under this Act are satisfied in relation to the agreement.”;

- (b) after subsection (2), there shall be inserted—

“(3) The conditions regulating compromise agreements under this Act are that—

(a) the agreement must be in writing;

(b) the agreement must relate to the particular complaint;

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- (c) the employee must have received independent legal advice from a qualified lawyer as to the terms and effect of the proposed agreement and in particular its effect on his ability to pursue his rights before an industrial tribunal;
- (d) there must be in force, when the adviser gives the advice, a policy of insurance covering the risk of a claim by the employee in respect of loss arising in consequence of the advice;
- (e) the agreement must identify the adviser; and
- (f) the agreement must state that the conditions regulating compromise agreements under this Act are satisfied.

(4) In subsection (3)—

independent, in relation to legal advice to the employee, means that it is given by a lawyer who is not acting in the matter for the employer or an associated employer; and

qualified lawyer means—

- (a) as respects proceedings in England and Wales—
  - (i) a barrister, whether in practice as such or employed to give legal advice, or
  - (ii) a solicitor of the Supreme Court who holds a practising certificate;
- (b) as respects proceedings in Scotland—
  - (i) an advocate, whether in practice as such or employed to give legal advice, or
  - (ii) a solicitor who holds a practising certificate.”.

- (2) Schedule 6 to this Act shall have effect for making corresponding amendments in the <sup>M3</sup>Sex Discrimination Act 1975, the <sup>M4</sup>Race Relations Act 1976, the <sup>M5</sup>Wages Act 1986 and the <sup>M6</sup>Trade Union and Labour Relations (Consolidation) Act 1992.

**Marginal Citations**

**M3** 1975 c. 65.

**M4** 1976 c. 74.

**M5** 1986 c. 48.

**M6** 1992 c. 52.

**40 Restriction of publicity in cases involving sexual misconduct: industrial tribunals.**

- (1) Schedule 9 to the 1978 Act (regulations for industrial tribunals) shall be amended by the insertion in paragraph 1 of the following.

- (2) After sub-paragraph (5) there shall be inserted—

“(5A) The regulations may include provision—

- (a) for cases involving allegations of the commission of sexual offences, for securing that the registration or other making available of documents or decisions shall be so effected as to prevent the identification of any person affected by or making the allegation;

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- (b) for cases involving allegations of sexual misconduct, enabling an industrial tribunal, on the application of any party to proceedings before it or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the decision of the tribunal.

In this sub-paragraph—

identifying matter, in relation to a person, means any matter likely to lead members of the public to identify him as a person affected by, or as the person making, the allegation;

restricted reporting order means an order prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain;

sexual misconduct means the commission of a sexual offence, sexual harassment or other adverse conduct (of whatever nature) related to sex, and conduct is related to sex whether the relationship with sex lies in the character of the conduct or in its having reference to the sex or sexual orientation of the person at whom the conduct is directed;

sexual offence means any offence to which section 141A(2) of the <sup>M7</sup>Criminal Procedure (Scotland) Act 1975, section 4 of the <sup>M8</sup>Sexual Offences (Amendment) Act 1976 or the <sup>M9</sup>Sexual Offences (Amendment) Act 1992 applies (offences under the <sup>M10</sup>Sexual Offences Act 1956, the <sup>M11</sup>Sexual Offences (Scotland) Act 1976 and certain other enactments);

and written publication and relevant programme have the same meaning as in that Act of 1992.”

- (3) In sub-paragraph (6), after the word send there shall be inserted the words “ (subject to any regulations under sub-paragraph (5A)(a)) ”.
- (4) After sub-paragraph (7) there shall be inserted—

“(8) If any identifying matter is published or included in a relevant programme in contravention of a restricted reporting order the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—

- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
- (b) in the case of publication in any other form, the person publishing the matter; and
- (c) in the case of matter included in a relevant programme—
- (i) any body corporate engaged in providing the service in which the programme is included; and
- (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

Expressions used in this sub-paragraph and in sub-paragraph (5A) have the same meaning in this sub-paragraph as in that sub-paragraph.

- (9) Where a person is charged with an offence under sub-paragraph (8) it shall be a defence to prove that at the time of the alleged offence he was not aware, and

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neither suspected nor had reason to suspect, that the publication or programme in question was of, or (as the case may be) included, the matter in question.

(10) Where an offence under sub-paragraph (8) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person purporting to act in any such capacity,

he as well as the body corporate shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(11) In relation to a body corporate whose affairs are managed by its members director, in sub-paragraph (10), means a member of the body corporate.”

#### Marginal Citations

**M7** 1975 c. 21.

**M8** 1976 c. 82.

**M9** 1992 c. 34.

**M10** 1956 c. 69.

**M11** 1976 c. 67.

#### 41 Restriction of publicity in cases involving sexual misconduct: Employment Appeal Tribunal.

(1) Schedule 11 to the 1978 Act (Employment Appeal Tribunal) shall be amended by the insertion after paragraph 18 (rules) of the following—

“18A

(1) Without prejudice to the generality of paragraph 17 the rules may, as respects proceedings to which this paragraph applies, include provision—

(a) for cases involving allegations of the commission of sexual offences, for securing that the registration or other making available of documents or decisions shall be so effected as to prevent the identification of any person affected by or making the allegation; and

(b) for cases involving allegations of sexual misconduct, enabling the Appeal Tribunal, on the application of any party to the proceedings before it or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the decision of the Appeal Tribunal.

(2) This paragraph applies to—

(a) proceedings on an appeal against a decision of an industrial tribunal to make, or not to make, a restricted reporting order; and

(b) proceedings on an appeal against any interlocutory decision of an industrial tribunal in proceedings in which the industrial tribunal has made a restricted reporting order which it has not revoked.

(3) If any identifying matter is published or included in a relevant programme in contravention of a restricted reporting order the following persons shall be

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guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—

- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
- (b) in the case of publication in any other form, the person publishing the matter; and
- (c) in the case of matter included in a relevant programme—
  - (i) any body corporate engaged in providing the service in which the programme is included; and
  - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(4) Where a person is charged with an offence under sub-paragraph (3) it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or (as the case may be) included, the matter in question.

(5) Where an offence under sub-paragraph (3) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) a director, manager, secretary or other similar officer of the body corporate, or
- (b) a person purporting to act in any such capacity,

he as well as the body corporate shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(6) In relation to a body corporate whose affairs are managed by its members director, in sub-paragraph (5), means a member of the body corporate.

(7) In this paragraph—

identifying matter, in relation to a person, means any matter likely to lead members of the public to identify him as a person affected by, or as the person making, the allegation;

restricted reporting order means an order prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain;

sexual misconduct means the commission of a sexual offence, sexual harassment or other adverse conduct (of whatever nature) related to sex, and conduct is related to sex whether the relationship with sex lies in the character of the conduct or in its having reference to the sex or sexual orientation of the person at whom the conduct is directed;

sexual offence means any offence to which section 141A(2) of the <sup>M12</sup>Criminal Procedure (Scotland) Act 1975, section 4 of the <sup>M13</sup>Sexual Offences (Amendment) Act 1976 or the <sup>M14</sup>Sexual Offences (Amendment) Act 1992 applies (offences under the <sup>M15</sup>Sexual Offences Act 1956, the <sup>M16</sup>Sexual Offences (Scotland) Act 1976 and certain other enactments);

and written publication and relevant programme have the same meaning as in that Act of 1992.”.



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#### Marginal Citations

**M12** 1975 c. 21

**M13** 1976 c. 82.

**M14** 1992 c. 34.

**M15** 1956 c. 69.

**M16** 1976 c. 67.

## 42 Restriction of vexatious proceedings.

After section 136 of the 1978 Act there shall be inserted—

### “136A Restriction of vexatious proceedings.

- (1) If, on an application made by the Attorney General or the Lord Advocate under this section, the Appeal Tribunal is satisfied that any person has habitually and persistently and without any reasonable ground—
  - (a) instituted vexatious proceedings, whether in an industrial tribunal or before the Appeal Tribunal, and whether against the same person or against different persons; or
  - (b) made vexatious applications in any proceedings, whether in an industrial tribunal or before the Appeal Tribunal,the Appeal Tribunal may, after hearing that person or giving him an opportunity of being heard, make a restriction of proceedings order.
- (2) A restriction of proceedings order is an order that—
  - (a) no proceedings shall without the leave of the Appeal Tribunal be instituted in any industrial tribunal or before the Appeal Tribunal by the person against whom the order is made;
  - (b) any proceedings instituted by him in any industrial tribunal or before the Appeal Tribunal before the making of the order shall not be continued by him without the leave of the Appeal Tribunal; and
  - (c) no application (other than one for leave under this section) shall be made by him in any proceedings in any industrial tribunal or in the Appeal Tribunal without the leave of the Appeal Tribunal.
- (3) A restriction of proceedings order may provide that it is to cease to have effect at the end of a specified period, but shall otherwise remain in force indefinitely.
- (4) Leave for the institution or continuance of, or for the making of an application in, any proceedings in an industrial tribunal or before the Appeal Tribunal by a person who is the subject of a restricted proceedings order shall not be given unless the Appeal Tribunal is satisfied that the proceedings or application are not an abuse of the process of the tribunal in question and that there are reasonable grounds for the proceedings or application.
- (5) No appeal shall lie from a decision of the Appeal Tribunal refusing leave for the institution or continuance of, or for the making of an application in, proceedings by a person who is the subject of a restriction of proceedings order.
- (6) A copy of a restriction of proceedings order shall be published in the London Gazette and in the Edinburgh Gazette.”

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## ACAS

### 43 Functions of ACAS.

- (1) In section 209 of the 1992 Act (general duty of ACAS to promote improvement of industrial relations), for the words following industrial relations there shall be substituted “, in particular, by exercising its functions in relation to the settlement of trade disputes under sections 210 and 212. ”.
- (2) For section 213 of the 1992 Act (powers of ACAS to give advice) there shall be substituted—

#### “213 Advice.

- (1) ACAS may, on request or otherwise, give employers, employers’ associations, workers and trade unions such advice as it thinks appropriate on matters concerned with or affecting or likely to affect industrial relations.
- (2) ACAS may also publish general advice on matters concerned with or affecting or likely to affect industrial relations.”.
- (3) In section 249(2) of the 1992 Act (chairman to be full time, but other members full or part time), the first sentence shall be omitted, and, in the second sentence, after the word as, in the first place where it occurs, there shall be inserted the words “ chairman, or as ”.

### 44 Fees for exercise of functions by ACAS.

After section 251 of the 1992 Act there shall be inserted the following section—

#### “251A Fees for exercise of functions by ACAS.

- (1) ACAS may, in any case in which it thinks it appropriate to do so, but subject to any directions under subsection (2) below, charge a fee for exercising a function in relation to any person.
- (2) The Secretary of State may direct ACAS to charge fees, in accordance with the direction, for exercising any function specified in the direction, but the Secretary of State shall not give a direction under this subsection without consulting ACAS.
- (3) A direction under subsection (2) above may require ACAS to charge fees in respect of the exercise of a function only in specified descriptions of case.
- (4) A direction under subsection (2) above shall specify whether fees are to be charged in respect of the exercise of any specified function—
  - (a) at the full economic cost level, or
  - (b) at a level less than the full economic cost but not less than a specified proportion or percentage of the full economic cost.
- (5) Where a direction requires fees to be charged at the full economic cost level ACAS shall fix the fee for the case at an amount estimated to be sufficient to cover the administrative costs of ACAS of exercising the function including an appropriate sum in respect of general staff costs and overheads.

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- (6) Where a direction requires fees to be charged at a level less than the full economic cost ACAS shall fix the fee for the case at such amount, not being less than the proportion or percentage of the full economic cost specified under subsection (4)(b) above, as it thinks appropriate (computing that cost in the same way as under subsection (5) above).
- (7) No liability to pay a fee charged under this section shall arise on the part of any person unless ACAS has notified that person that a fee may or will be charged.
- (8) For the purposes of this section—
  - (a) a function is exercised “in relation to” a person who avails himself of the benefit of its exercise, whether or not he requested its exercise and whether the function is such as to be exercisable in relation to particular persons only or in relation to persons generally; and
  - (b) where a function is exercised in relation to two or more persons the fee chargeable for its exercise shall be apportioned among them as ACAS thinks appropriate.”.

#### *Careers services*

### **45 Careers services.**

For sections 8 to 10 of the <sup>M17</sup>Employment and Training Act 1973 (careers services of education authorities) and the heading immediately preceding them there shall be substituted—

#### *“Careers services*

### **8 Duty of Secretary of State to ensure provision of careers services for school and college students.**

- (1) It shall be the duty of the Secretary of State to secure the provision of relevant services for assisting persons undergoing relevant education to decide—
  - (a) what employments, having regard to their capabilities, will be suitable for and available to them when they cease undergoing such education, and
  - (b) what training or education is or will be required by and available to them in order to fit them for those employments,and for assisting persons ceasing to undergo relevant education to obtain such employments, training and education.
- (2) In subsection (1) of this section and section 9 of this Act “relevant services” means—
  - (a) giving of assistance by collecting, or disseminating or otherwise providing, information about persons seeking, obtaining or offering employment, training and education,
  - (b) offering advice and guidance, and
  - (c) other services calculated to facilitate the provision of any services specified in paragraphs (a) and (b) of this subsection.
- (3) In this section and section 9 of this Act “relevant education” means—

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- (a) education involving full-time attendance at any educational institution in Great Britain, other than an educational institution within the higher education sector, and
  - (b) education involving part-time attendance at any educational institution in Great Britain, other than an educational institution within the higher education sector, which is education of a description commonly undergone by persons in order to fit them for employment.
- (4) The references in subsection (3) of this section to an educational institution within the higher education sector shall be construed—
- (a) as respects England and Wales, in accordance with section 91(5) of the <sup>M18</sup>Further and Higher Education Act 1992 or, if this section is in force at any time before section 65 of that Act comes into force, in accordance with section 61(3)(a) of that Act until that section comes into force, and
  - (b) as respects Scotland, in accordance with section 56(2) of the <sup>M19</sup>Further and Higher Education (Scotland) Act 1992.

### **9 Power of Secretary of State to arrange for provision of careers services for others.**

The Secretary of State shall have power to secure the provision of relevant services, or any description of relevant services, for assisting persons other than those undergoing relevant education, or any description of such persons, to decide—

- (a) what employments, having regard to their capabilities, are or will be suitable for and available to them, and
- (b) what training or education is or will be required by and available to them in order to fit them for those employments,

and for assisting those persons to obtain such employments, training and education.

### **10 Provision of services.**

- (1) The Secretary of State may perform the duty imposed on him by section 8 of this Act, and exercise the power conferred on him by section 9 of this Act, by making arrangements with—
- (a) local education authorities or (in Scotland) education authorities,
  - (b) persons of any other description, or
  - (c) local education authorities or education authorities and persons of any other description acting jointly,
- under which they undertake to provide, or arrange for the provision of, services in accordance with the arrangements; and in doing so the Secretary of State shall have regard to the requirements of disabled persons.
- (2) The Secretary of State may also perform the duty imposed on him by section 8 of this Act, and exercise the power conferred on him by section 9 of this Act, by giving directions to local education authorities or education authorities requiring them to provide, or arrange for the provision of, services in accordance with the directions; and in doing so the Secretary of State shall have regard to the requirements of disabled persons.

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- (3) Directions given under this section may require local education authorities and education authorities—
  - (a) to provide services themselves or jointly with other authorities or persons,
  - (b) to arrange for the provision of services by other authorities or persons, or
  - (c) to consult and co-ordinate in the provision, or in arranging for the provision, of services with other authorities or persons.
- (4) Arrangements made, and directions given, under this section may include provision for the making of payments by the Secretary of State, whether by way of grant or loan or otherwise, to the persons with whom they are made or to whom they are given.
- (5) Arrangements made, and directions given, under this section in exercise of the power conferred by section 9 of this Act may include provision permitting the making of charges for the provision of the services to which they relate.
- (6) Arrangements made, and directions given, under this section shall require the person with whom they are made or to whom they are given—
  - (a) to provide, or arrange for the provision, of services in accordance with such guidance of a general character as the Secretary of State may give, and
  - (b) to furnish the Secretary of State, in such manner and at such times as he may specify in the arrangements or directions or in guidance given under paragraph (a) of this subsection, with such information and facilities for obtaining information as he may so specify.
- (7) The Secretary of State may give directions to local education authorities and education authorities requiring them to transfer (on such terms as may be specified in the directions) to any persons who are providing, or are to provide, services in accordance with arrangements made, or directions given, under this section any records of the authorities which may be relevant in the provision of the services.
- (8) Local education authorities and education authorities shall have power—
  - (a) to provide services or arrange for the provision of services in accordance with arrangements made, or directions given, under this section (including services provided outside their areas) by any such means (including by the formation of companies for the purpose) as they consider appropriate, and
  - (b) to employ officers and provide facilities for and in connection with the provision of the services or arranging for the provision of the services;but, where directions are given to local education authorities and education authorities, the power conferred on them by this subsection shall be exercised in accordance with the directions.
- (9) Where services are being provided in pursuance of arrangements made, or directions given, under this section, the authority with whom the arrangements are made or to whom the directions have been given shall have power, with the consent of the Secretary of State, to provide, or arrange for the provision of, more extensive (relevant) services than the arrangements authorise or the

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directions require and to employ more officers and provide more facilities accordingly.

- (10) Nothing in sections 8 and 9 and this section shall make it unlawful for a local education authority or education authority to defray the cost of exercising their powers under this section from resources other than payments of the Secretary of State.
- (11) A direction given under this section may be revoked or varied by another direction so given.
- (12) Nothing in this section shall be taken to limit the arrangements which may be made under section 2 of this Act.”.

#### Commencement Information

**I2** S. 45 wholly in force at 1.4.1995; s. 45 not in force at Royal Assent see s. 52; s. 45 in force for certain purposes at 30.11.1993 and so far as not already in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(2)(3), Schs. 2, 3.

#### Marginal Citations

**M17** 1973 c. 50.  
**M18** 1992 c. 13.  
**M19** 1992 c. 37.

VALID FROM 01/04/1994

#### 46 Careers services: ancillary services.

After section 10 of the <sup>M20</sup>Employment and Training Act 1973 (which is inserted by section 45 above) there shall be inserted—

##### “10A Provision of ancillary goods and services.

- (1) The functions of a local education authority or education authority shall include power to enter into agreements for the supply of goods or services authorised by this section with any person (other than an authority) who provides, or arranges for the provision of, relevant services and is a person with whom this section authorises such arrangements to be made.
- (2) This section authorises the making of such arrangements with any person—
- (a) who, under arrangements (or joint arrangements) made with that person under section 10(1) or (3) of this Act provides, or arranges for the provision of, the services;
  - (b) who provides the services jointly with an authority under section 10(3) of this Act;
  - (c) who is the means by which, under section 10(8), an authority provides, or arranges for the provision of, the services.
- (3) Subject to subsections (4), (5) and (6) below, this section authorises—
- (a) the supply by the authority to the person of any goods;

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**Changes to legislation:** There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993, Part III. (See end of Document for details)

- (b) the provision by the authority for the person of any administrative, professional or technical services;
- (c) the use by the person of any vehicle, plant or apparatus belonging to the authority and, without prejudice to paragraph (b) above, the placing at the disposal of the person of the services of any person employed in connection with the vehicle or other property in question;
- (d) the carrying out by the authority of works of maintenance in connection with land or buildings for the maintenance of which the person is responsible;

and the authority may purchase and store any goods which in their opinion they may require for the purposes of paragraph (a) above.

- (4) The supply by an authority of goods or services to any person is authorised by this section only for the purpose of the provision by that person of relevant services.
- (5) The supply by an authority of goods or services to any person is authorised by this section only during the period of two years beginning with the day on which that person first provides relevant services in the area of that authority.
- (6) Goods and services shall be supplied on such terms as can reasonably be expected to secure that the full cost of making the supply is recovered by the authority.
- (7) The supply by an authority of goods or services to any person is authorised outside as well as within the area of that authority.
- (8) This section is without prejudice to the generality of any other enactment conferring functions on local education authorities or education authorities.
- (9) In this section—
  - “goods” includes materials; and
  - “relevant services” has the meaning given in section 8(2) of this Act.”.

#### Commencement Information

**I3** S. 46 wholly in force at 1.4.1995; s. 46 not in force at Royal Assent see s. 52; s. 46 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

#### Marginal Citations

**M20** 1973 c. 50.

### *Training etc. in Scotland*

#### **47 Employment and training functions of Scottish Enterprise and Highlands and Islands Enterprise.**

- (1) In section 2 of the <sup>M21</sup>Employment and Training Act 1973 (functions of the Secretary of State), after subsection (3) there shall be inserted—

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“(3A) Without prejudice to subsection (2)(f) of this section, the Secretary of State may wholly or partly perform his duty under subsection (1) of this section in relation to Scotland by authorising or directing Scottish Enterprise or Highlands and Islands Enterprise to act on his behalf—

- (a) in the making of arrangements under this section in such cases or for such purposes as may be specified in or determined under the authorisation or direction;
- (b) in the taking of such steps for the purposes of, or in connection with, the carrying out of any arrangements under this section (including any made otherwise than by Scottish Enterprise or Highlands and Islands Enterprise) as may be so specified or determined,

and the power under this subsection to give authorisations or directions shall include power to revoke or vary any authorisation or direction so given.

(3B) Where Scottish Enterprise or Highlands and Islands Enterprise make arrangements under this section in pursuance of an authorisation or direction made by the Secretary of State under subsection (3A)(a) above, they shall, at such times as the Secretary of State may require, report to him what provision, if any, they have included in those arrangements in relation to disabled persons.”.

- (2) The <sup>M22</sup>Enterprise and New Towns (Scotland) Act 1990 shall be amended in accordance with the following provisions of this section.
- (3) In paragraphs (a)(ii) and (b)(ii) of section 1 (Scottish Enterprise and Highlands and Islands Enterprise), after the word Act, there shall be inserted the words “ maintaining and ”.
- (4) In section 2 (functions in relation to training for employment etc.)—
  - (a) in subsection (3), after paragraph (c) there shall be inserted “; and
    - (d) providing temporary employment for persons who are without employment.”, and
  - (b) in subsection (4), for the word training, in both places where it occurs, there shall be substituted the words “ employment and training ”.
- (5) After section 14 there shall be inserted—

**“14A Power of Ministers to confer or impose functions.**

- (1) Without prejudice to the foregoing provisions of this Act, the functions of each of Scottish Enterprise and Highlands and Islands Enterprise shall include—
  - (a) a power to do anything in connection with unemployment, training for employment or employment which it is authorised to do by a Minister of the Crown; and
  - (b) a duty to do anything in connection with unemployment, training for employment or employment which it is required to do by or under a direction given to it by a Minister of the Crown.
- (2) Scottish Enterprise and Highlands and Islands Enterprise shall each—
  - (a) from time to time submit to the Secretary of State particulars of what it proposes to do for the purpose of carrying out the functions conferred or imposed upon it by or under subsection (1) above; and



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- (b) ensure that all its activities in relation to those functions are in accordance with such proposals submitted by it to the Secretary of State as have been approved by him and with such modifications (if any) of those proposals as are notified to the body in question by him.
- (3) The power of a Minister of the Crown by virtue of subsection (1) above to authorise or direct Scottish Enterprise or Highlands and Islands Enterprise to do anything shall include the power to delegate powers conferred on him by any enactment; but nothing in this section shall authorise any Minister of the Crown to delegate a power to make subordinate legislation (within the meaning of the <sup>M23</sup>Interpretation Act 1978).”.

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**Marginal Citations**

**M21** 1973 c. 50.

**M22** 1990 c. 35.

**M23** 1978 c. 30.

**Status:**

Point in time view as at 30/11/1993. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993, Part III.