



# Trade Union Reform and Employment Rights Act 1993

## 1993 CHAPTER 19

### PART III

#### OTHER EMPLOYMENT MATTERS

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

#### **F1** 35 **Repeal of Part II of Wages Act 1986.**

.....

#### **Textual Amendments**

**F1** S. 35 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

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

#### **F2** 36 .....

#### **Textual Amendments**

**F2** Ss. 36-38 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, Sch. 3 Pt. I (with s. 38)

#### **F3** 37 .....

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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)*

**Textual Amendments**

**F3** Ss. 36-38 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

<sup>F4</sup>**38** .....

**Textual Amendments**

**F4** Ss. 36-38 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

**39** **Agreements not to take proceedings before [<sup>F5</sup>employment tribunal].**

<sup>F6</sup>(1) .....

(2) Schedule 6 to this Act shall have effect for making corresponding amendments in the <sup>M1</sup>Sex Discrimination Act 1975, the <sup>M2</sup>Race Relations Act 1976 <sup>F7</sup>... and the <sup>M3</sup>Trade Union and Labour Relations (Consolidation) Act 1992.

**Textual Amendments**

**F5** Words in sidenote 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**

**F6** S. 39(1) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

**F7** Words in s. 39(2) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

**Marginal Citations**

**M1** 1975 c. 65.

**M2** 1976 c. 74.

**M3** 1992 c. 52.

<sup>F8</sup>**40** .....

**Textual Amendments**

**F8** Ss. 40-42 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

<sup>F9</sup>**41** .....

**Textual Amendments**

**F9** Ss. 40-42 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

<sup>F10</sup>**42** .....

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**Textual Amendments**

**F10** Ss. 40-42 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

*ACAS*

**43 Functions of ACAS.**

<sup>F11</sup>(1) . . . . .

(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 ”.

**Textual Amendments**

**F11** S. 43(1) repealed (25.10.1999) by 1999 c. 26, s. 44, **Sch. 9(5)**; S.I. 1999/2830, 2(2)(a)(with Sch. 3)

**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—

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- (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.
- (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>M4</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—

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- (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—
- (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>M5</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>M6</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.

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- (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.
- (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.

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- (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 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

- II** 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

- M4** 1973 c. 50.  
**M5** 1992 c. 13.  
**M6** 1992 c. 37.

## 46 Careers services: ancillary services.

After section 10 of the <sup>M7</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.

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- (3) Subject to subsections (4), (5) and (6) below, this section authorises—
- (a) the supply by the authority to the person of any goods;
  - (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

**I2** [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

**M7** [1973 c. 50](#).



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### *Training etc. in Scotland*

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

- (1) In section 2 of the <sup>M8</sup>Employment and Training Act 1973 (functions of the Secretary of State), after subsection (3) there shall be inserted—

“(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>M9</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

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- (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
  - (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>M10</sup>Interpretation Act 1978).”.

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**Marginal Citations**

**M8** 1973 c. 50.

**M9** 1990 c. 35.

**M10** 1978 c. 30.

**Status:**

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