



# Trade Union Reform and Employment Rights Act 1993

## 1993 CHAPTER 19

### PART III

#### OTHER EMPLOYMENT MATTERS

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

#### **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;
- (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;

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*Status: This is the original version (as it was originally enacted).*

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“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 Criminal Procedure (Scotland) Act 1975, section 4 of the Sexual Offences (Amendment) Act 1976 or the Sexual Offences (Amendment) Act 1992 applies (offences under the Sexual Offences Act 1956, the 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 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.”.