



# Employment Relations Act 1999

## 1999 CHAPTER 26

### *Trade unions*

#### **1 Collective bargaining: recognition**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 shall be amended as follows.
- (2) After Chapter V of Part I (rights of trade union members) there shall be inserted—

#### **“CHAPTER VA**

#### **COLLECTIVE BARGAINING: RECOGNITION**

##### **70A Recognition of trade unions**

Schedule A1 shall have effect.”

- (3) Immediately before Schedule 1 there shall be inserted the Schedule set out in Schedule 1 to this Act.

#### **2 Detriment related to trade union membership**

Schedule 2 shall have effect.

#### **3 Blacklists**

- (1) The Secretary of State may make regulations prohibiting the compilation of lists which—
  - (a) contain details of members of trade unions or persons who have taken part in the activities of trade unions, and

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- (b) are compiled with a view to being used by employers or employment agencies for the purposes of discrimination in relation to recruitment or in relation to the treatment of workers.
- (2) The Secretary of State may make regulations prohibiting—
- (a) the use of lists to which subsection (1) applies;
  - (b) the sale or supply of lists to which subsection (1) applies.
- (3) Regulations under this section may, in particular—
- (a) confer jurisdiction (including exclusive jurisdiction) on employment tribunals and on the Employment Appeal Tribunal;
  - (b) include provision for or about the grant and enforcement of specified remedies by courts and tribunals;
  - (c) include provision for the making of awards of compensation calculated in accordance with the regulations;
  - (d) include provision permitting proceedings to be brought by trade unions on behalf of members in specified circumstances;
  - (e) include provision about cases where an employee is dismissed by his employer and the reason or principal reason for the dismissal, or why the employee was selected for dismissal, relates to a list to which subsection (1) applies;
  - (f) create criminal offences;
  - (g) in specified cases or circumstances, extend liability for a criminal offence created under paragraph (f) to a person who aids the commission of the offence or to a person who is an agent, principal, employee, employer or officer of a person who commits the offence;
  - (h) provide for specified obligations or offences not to apply in specified circumstances;
  - (i) include supplemental, incidental, consequential and transitional provision, including provision amending an enactment;
  - (j) make different provision for different cases or circumstances.
- (4) Regulations under this section creating an offence may not provide for it to be punishable—
- (a) by imprisonment,
  - (b) by a fine in excess of level 5 on the standard scale in the case of an offence triable only summarily, or
  - (c) by a fine in excess of the statutory maximum in the case of summary conviction for an offence triable either way.
- (5) In this section—
- “list” includes any index or other set of items whether recorded electronically or by any other means, and
  - “worker” has the meaning given by section 13.
- (6) Subject to subsection (5), expressions used in this section and in the Trade Union and Labour Relations (Consolidation) Act 1992 have the same meaning in this section as in that Act.

#### **4 Ballots and notices**

Schedule 3 shall have effect.

#### **5 Training**

In Chapter VA of Part I of the Trade Union and Labour Relations (Consolidation) Act 1992 (collective bargaining: recognition) as inserted by section 1 above, there shall be inserted after section 70A—

##### **“70B Training**

- (1) This section applies where—
  - (a) a trade union is recognised, in accordance with Schedule A1, as entitled to conduct collective bargaining on behalf of a bargaining unit (within the meaning of Part I of that Schedule), and
  - (b) a method for the conduct of collective bargaining is specified by the Central Arbitration Committee under paragraph 31(3) of that Schedule (and is not the subject of an agreement under paragraph 31(5)(a) or (b)).
- (2) The employer must from time to time invite the trade union to send representatives to a meeting for the purpose of—
  - (a) consulting about the employer’s policy on training for workers within the bargaining unit,
  - (b) consulting about his plans for training for those workers during the period of six months starting with the day of the meeting, and
  - (c) reporting about training provided for those workers since the previous meeting.
- (3) The date set for a meeting under subsection (2) must not be later than—
  - (a) in the case of a first meeting, the end of the period of six months starting with the day on which this section first applies in relation to a bargaining unit, and
  - (b) in the case of each subsequent meeting, the end of the period of six months starting with the day of the previous meeting.
- (4) The employer shall, before the period of two weeks ending with the date of a meeting, provide to the trade union any information—
  - (a) without which the union’s representatives would be to a material extent impeded in participating in the meeting, and
  - (b) which it would be in accordance with good industrial relations practice to disclose for the purposes of the meeting.
- (5) Section 182(1) shall apply in relation to the provision of information under subsection (4) as it applies in relation to the disclosure of information under section 181.
- (6) The employer shall take account of any written representations about matters raised at a meeting which he receives from the trade union within the period of four weeks starting with the date of the meeting.

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- (7) Where more than one trade union is recognised as entitled to conduct collective bargaining on behalf of a bargaining unit, a reference in this section to “the trade union” is a reference to each trade union.
- (8) Where at a meeting under this section (Meeting 1) an employer indicates his intention to convene a subsequent meeting (Meeting 2) before the expiry of the period of six months beginning with the date of Meeting 1, for the reference to a period of six months in subsection (2)(b) there shall be substituted a reference to the expected period between Meeting 1 and Meeting 2.
- (9) The Secretary of State may by order made by statutory instrument amend any of subsections (2) to (6).
- (10) No order shall be made under subsection (9) unless a draft has been laid before, and approved by resolution of, each House of Parliament.

### **70C Section 70B: complaint to employment tribunal**

- (1) A trade union may present a complaint to an employment tribunal that an employer has failed to comply with his obligations under section 70B in relation to a bargaining unit.
- (2) An employment tribunal shall not consider a complaint under this section unless it is presented—
  - (a) before the end of the period of three months beginning with the date of the alleged failure, or
  - (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.
- (3) Where an employment tribunal finds a complaint under this section well-founded it—
  - (a) shall make a declaration to that effect, and
  - (b) may make an award of compensation to be paid by the employer to each person who was, at the time when the failure occurred, a member of the bargaining unit.
- (4) The amount of the award shall not, in relation to each person, exceed two weeks' pay.
- (5) For the purpose of subsection (4) a week's pay—
  - (a) shall be calculated in accordance with Chapter II of Part XIV of the Employment Rights Act 1996 (taking the date of the employer's failure as the calculation date), and
  - (b) shall be subject to the limit in section 227(1) of that Act.
- (6) Proceedings for enforcement of an award of compensation under this section—
  - (a) may, in relation to each person to whom compensation is payable, be commenced by that person, and
  - (b) may not be commenced by a trade union.”

## **6 Unfair dismissal connected with recognition: interim relief**

In sections 128(1)(b) and 129(1) of the Employment Rights Act 1996 (interim relief) after “103” there shall be inserted “or in paragraph 161(2) of Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992”.