

Status: Point in time view as at 06/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Employment Relations Act 2004, Cross Heading: The 1992 Act. (See end of Document for details)

SCHEDULES

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

The 1992 Act

- 3 In section 19 of the 1992 Act (application of certain provisions relating to friendly societies to trade unions), omit subsection (4).

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Commencement Information

I1 Sch. 1 para. 3 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 4 In section 41(3) of the 1992 Act (date of next re-examination of superannuation scheme where exemption revoked by Certification Officer), for “(1)(b)” substitute “(2)”.

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Commencement Information

I2 Sch. 1 para. 4 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 5 In section 54(3) of the 1992 Act (time limit for applications under section 55 or 56 of that Act), for “No such application” substitute “Where an election has been held, no application under those sections with respect to that election”.

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Commencement Information

I3 Sch. 1 para. 5 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 6 In section 82 of the 1992 Act (rules as to a union’s political fund), for subsection (4) substitute—

“(4A) Where an order has been made under this section, any person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if he had made the complaint on which it was made.

(4B) An order made by the Certification Officer under this section may be enforced—

- (a) in England and Wales, in the same way as an order of the county court;
- (b) in Scotland, in the same way as an order of the sheriff.”

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I4 Sch. 1 para. 6 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch. (with art. 20)

- 7 In section 103 of the 1992 Act (complaints as regards passing of resolution on amalgamation or transfer of engagements), in subsection (8), for “application” substitute “complaint”.

Commencement Information

I5 Sch. 1 para. 7 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 8 In section 146 of the 1992 Act (action short of dismissal on grounds related to union membership or activities), in each of subsections (1), (3) and (4), for “the purpose” substitute “the sole or main purpose”.

Commencement Information

I6 Sch. 1 para. 8 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 9 In section 148 of the 1992 Act (consideration of complaint), in subsection (1), for “the purpose” substitute “what was the sole or main purpose”.

Commencement Information

I7 Sch. 1 para. 9 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 10 In section 150 of the 1992 Act (awards against third parties), in subsection (1)(a), for “the purpose” substitute “the sole or main purpose”.

Commencement Information

I8 Sch. 1 para. 10 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 11 (1) Section 155 of the 1992 Act (matters to be disregarded in assessing contributory fault) is amended as follows.
- (2) In subsection (2), omit the word “or” at the end of paragraph (b) and at the end of paragraph (c) insert “, or
- (d) not to make use of services made available by any trade union or by a particular trade union or by one of a number of particular trade unions.”
- (3) After that subsection insert—
- “(2A) Conduct or action of the complainant shall be disregarded in so far as it constitutes acceptance of or failure to accept an offer made in contravention of section 145A or 145B.”

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I9 Sch. 1 para. 11 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 12 In section 161(3) of the 1992 Act (application for interim relief), for “section 152(1) (a) or (b)” substitute “ section 152(1)(a), (b) or (ba), or on section 152(1)(bb) otherwise than in relation to an offer made in contravention of section 145A(1)(d), ”.

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I10 Sch. 1 para. 12 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 13 In section 229(4) of the 1992 Act (statement which must appear on voting paper in ballot for industrial action), for “eight” substitute “ twelve ”.

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I11 Sch. 1 para. 13 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 14 In section 233 of the 1992 Act (calling of industrial action with the support of a ballot), in subsection (3)(b), for “take place” substitute “ begin ”.

Commencement Information

I12 Sch. 1 para. 14 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 15 In section 263A of the 1992 Act (proceedings of the Central Arbitration Committee under Schedule A1), after subsection (7) add—
- “(8) The reference in subsection (1) to the Committee’s functions under Schedule A1 does not include a reference to its functions under paragraph 166 of that Schedule.”

Commencement Information

I13 Sch. 1 para. 15 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 16 (1) Section 284 of the 1992 Act (share fishermen) is amended as follows.
- (2) After “the employee” insert “ (or, in the case of sections 145A to 151, the worker) ”.
- (3) For “sections 146 to 151 (action short of dismissal)” substitute “ sections 145A to 151 (inducements and detriment) ”.

Commencement Information

I14 Sch. 1 para. 16 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 17 (1) Section 285 of the 1992 Act (employment outside Great Britain) is amended as follows.

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(2) In subsection (1), for “sections 146 to 151 (action short of dismissal)” substitute “sections 145A to 151 (inducements and detriment)”.

(3) After that subsection insert—

“(1A) Sections 145A to 151 do not apply to employment where under his contract personally to do work or perform services a worker who is not an employee works outside Great Britain.”

(4) In subsection (2)—

(a) for “subsection (1)” substitute “ subsections (1) and (1A) ”; and

(b) in paragraph (c), after “as the case may be,” insert “ the worker or ”.

Commencement Information

I15 Sch. 1 para. 17 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

18 In section 286(1) of the 1992 Act (provisions that may be disapplied in relation to prescribed descriptions of employment), for “sections 146 to 151 (action short of dismissal)” substitute “ sections 145A to 151 (inducements and detriment) ”.

Commencement Information

I16 Sch. 1 para. 18 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

19 In section 288(1)(b) of the 1992 Act (provisions restricting rights to bring proceedings to be void), omit sub-paragraph (ii) and the word “or” immediately preceding it.

Commencement Information

I17 Sch. 1 para. 19 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

20 (1) Section 292 of the 1992 Act (death of employee or employer) is amended as follows.

(2) Omit subsection (1)(a).

(3) After subsection (1) insert—

“(1A) This section also has effect in relation to sections 145A to 151 so far as those sections confer rights on workers or make provision in connection therewith.”

(4) In subsections (2) to (4), after “employee”, wherever occurring, insert “ or worker ”.

(5) In subsection (4), after “subsection (1)” insert “ or (1A) ”.

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I18 Sch. 1 para. 20 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

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- 21 In section 296 of the 1992 Act (meaning of “worker” and related expressions), in subsection (3), for “section 68(11)” substitute “ sections 68(4), 145F(3) and 151(1B) ”.

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I19 Sch. 1 para. 21 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 22 In section 299 of the 1992 Act (index of defined expressions), omit the entry relating to “place of work (in Part V)”.

Commencement Information

I20 Sch. 1 para. 22 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 23 (1) Schedule A1 to the 1992 Act (union recognition) is amended as follows.
- (2) In paragraph 2 (interpretation of Part 1), after sub-paragraph (3) insert—
- “(3A) References to an appropriate bargaining unit’s being decided by the CAC are to a bargaining unit’s being decided by the CAC to be appropriate under paragraph 19(2) or (3) or 19A(2) or (3).”
- (3) In paragraph 16(1) (point after which application may not be withdrawn), in paragraph (a), after “paragraph” insert “ 19F(5) or ”.
- (4) In paragraph 17(3) (final event before which notice to cease consideration of application may be given)—
- (a) in paragraph (a), after “paragraph” insert “ 19F(5) or ”; and
- (b) in the words after paragraph (b), for “24(5)” substitute “ 24(6) ”.
- (5) In each of paragraphs 20(1)(b) and 21(1)(b) (application of paragraphs 20 and 21), after “appropriate period” insert “ (defined by paragraph 18) ”.
- (6) In paragraph 28 (costs of a recognition ballot), after sub-paragraph (6) insert—
- “(6A) Where an amount is recoverable from a union under sub-paragraph (6) execution may be carried out, to the same extent and in the same manner as if the union were a body corporate, against any property held in trust for the union other than protected property as defined in section 23(2).”
- (7) In paragraph 32 (procedure where method of collective bargaining not carried out), in sub-paragraph (2), for “parties” substitute “ employer or the union (or unions) ”.
- (8) In paragraph 37 (applications by more than one union under paragraph 11 or 12), in sub-paragraph (3)(b), for “11(4)” substitute “ 12(4) ”.
- (9) In paragraph 38 (admissibility of other relevant applications), in sub-paragraph (1) (d), for “22(2), 27(2),” substitute “ 19F(5), 22(2), 27(2), 27D(3), 27D(4), ”.
- (10) In paragraph 40 (bar on further application after declaration by the CAC of non-entitlement to recognition), in sub-paragraph (1)—
- (a) after “under paragraph” insert “ 27D(4) or ”; and
- (b) for “held” substitute “ arranged ”.

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- (11) In paragraph 41 (bar on further application after declaration by the CAC of end of bargaining arrangements), in sub-paragraph (1)—
- (a) after “under paragraph” insert “ 119D(4), 119H(5) or ”; and
 - (b) for “held” substitute “ arranged ”.
- (12) In paragraph 46 (invalidity of application where worker falls within another relevant bargaining unit), in sub-paragraph (1)(d), for “22(2), 27(2),” substitute “ 19F(5), 22(2), 27(2), 27D(3), 27D(4), ”.
- (13) In paragraph 48 (invalidity of application after declaration by the CAC of non-entitlement to recognition), in sub-paragraph (1)—
- (a) after “under paragraph” insert “ 27D(4) or ”; and
 - (b) for “held” substitute “ arranged ”.
- (14) In paragraph 49 (invalidity of application after declaration by the CAC of end of bargaining arrangements), in sub-paragraph (1)—
- (a) after “under paragraph” insert “ 119D(4), 119H(5) or ”; and
 - (b) for “held” substitute “ arranged ”.
- (15) In paragraph 51 (competing applications), in sub-paragraph (2)(b), after “19” insert “ or 19A ”.
- (16) In paragraph 52 (agreements for recognition), in sub-paragraph (3)—
- (a) in paragraph (f), after “paragraph”, where it first occurs, insert “ 19F(5) or ”; and
 - (b) in paragraph (h), for “24(5)” substitute “ 24(6) ”.
- (17) In paragraph 83 (duties of the CAC where it decides new unit contains at least one worker falling within a statutory outside bargaining unit), in sub-paragraph (8), for “(1)(a)” substitute “ (2)(a) ”.
- (18) In paragraph 89(5) (application of paragraphs 26 to 29), for the words from “but as if” onwards substitute “but as if—
- (a) references to the bargaining unit were references to the new unit, and
 - (b) paragraph 26(4F) to (4H), and the references in paragraph 26(4) and (6) to paragraph 19D, were omitted.”
- (19) In paragraph 89(8) (effect of declaration of entitlement to recognition), after “27(2)” insert “ or 27D(3) ”.
- (20) In paragraph 89, after sub-paragraph (8) add—
- “(9) Paragraphs (a) and (b) of sub-paragraph (7) also apply if the CAC issues a declaration under paragraph 27D(4).”
- (21) In paragraph 93 (withdrawal of applications), in sub-paragraph (1)(c), for “83(1)” substitute “ 83(2) ”.
- (22) In paragraph 119 (remedial orders) omit sub-paragraph (3).
- (23) In paragraph 120 (costs of a derecognition ballot), after sub-paragraph (6) insert—
- “(6A) Where an amount is recoverable from a union under sub-paragraph (6) execution may be carried out, to the same extent and in the same manner as

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if the union were a body corporate, against any property held in trust for the union other than protected property as defined in section 23(2).”

- (24) In paragraph 122(1) (first case in which Part 5 applies), in paragraph (a), for “22(2)” substitute “ 19F(5), 22(2), 27(2) or 27D(3) ”.
- (25) In paragraph 123(1) (second case in which Part 5 applies), in paragraph (a), for “22(2)” substitute “ 19F(5), 22(2), 27(2) or 27D(3) ”.
- (26) In paragraph 133(2) (ballot on de-recognition under Part 5 of that Schedule)—
- (a) in paragraph (a), for “reference in paragraph 119(2)(a)” substitute “ references in paragraphs 119(2)(a) and 119D(3) ”; and
 - (b) in paragraph (b), for “reference in paragraph 121(4)” substitute “ references in paragraphs 119A(3)(a)(ii), 119E(1)(b) and 121(4) ”.
- (27) In paragraph 147(2) (ballot on de-recognition under Part 6 of that Schedule)—
- (a) in paragraph (a), for “reference in paragraph 119(3)(a)” substitute “ references in paragraphs 119H(1) and 119I(1)(a) ”; and
 - (b) in paragraph (b), for “reference in paragraph 121(4)” substitute “ references in paragraphs 119A(3)(a)(ii), 119E(1)(b) and 121(4) ”.

Commencement Information

I21 Sch. 1 para. 23(1)-(21)(24)-(27) in force at 6.4.2005 by [S.I. 2005/872](#), [art. 4](#), [Sch.](#) (with [arts. 10, 21](#))

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