



# Trade Union and Labour Relations Act 1974

1974 CHAPTER 52

*Supplementary*

## **26 Regulations and orders**

- (1) The Secretary of State may make regulations for any purpose for which regulations are authorised or required to be made under this Act.
- (2) Any power to make regulations under this Act shall be exercisable by statutory instrument.
- (3) A statutory instrument containing any such regulations, other than regulations required to be laid in draft before Parliament before being made, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any power to make an order under any provision of this Act shall include power to revoke or vary the order by a subsequent order under that provision.

## **27 Expenses**

There shall be defrayed out of moneys provided by Parliament—

- (a) any administrative expenses incurred by the Secretary of State in consequence of the provisions of this Act; and
- (b) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

## **28 Meaning of trade union and employers' association**

- (1) In this Act, except so far as the context otherwise requires, " trade union " means an organisation (whether permanent or temporary) which either—
  - (a) consists wholly or mainly of workers of one or more descriptions and is an organisation whose principal purposes include the regulation of relations

between workers of that description or those descriptions and employers or employers' associations; or

- (b) consists wholly or mainly of—
  - (i) constituent or affiliated organisations which fulfil the conditions specified in paragraph (a) above (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or
  - (ii) representatives of such constituent or affiliated organisations;
 and in either case is an organisation whose principal purposes include the regulation of relations between workers and employers or between workers and employers' associations, or include the regulation of relations between its constituent or affiliated organisations.

(2) In this Act, except so far as the context otherwise requires, " employers' association " means an organisation (whether permanent or temporary) which either—

- (a) consists wholly or mainly of employers or individual proprietors of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between employers of that description or those descriptions and workers or trade unions; or
- (b) consists wholly or mainly of—
  - (i) constituent or affiliated organisations which fulfil the conditions specified in paragraph (a) above (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or
  - (ii) representatives of such constituent or affiliated organisations;
 and in either case is an organisation whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions, or include the regulation of relations between its constituent or affiliated organisations.

## 29 Meaning of trade dispute

(1) In this Act " trade dispute " means a dispute between employers and workers, or between workers and workers, which is connected with one or more of the following, that is to say—

- (a) terms and conditions of employment, or the physical conditions in which any workers are required to work ;
- (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;
- (c) allocation of work or the duties of employment as between workers or groups of workers ;
- (d) matters of discipline ;
- (e) the membership or non-membership of a trade union on the part of a worker ;
- (f) facilities for officials of trade unions ; and
- (g) machinery for negotiation or consultation, and other procedures, relating to any of the foregoing matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.

- (2) A dispute between a Minister of the Crown and any workers shall, notwithstanding that he is not the employer of those workers, be treated for the purposes of this Act as a dispute between employer and those workers if the dispute relates—
- (a) to matters which have been referred for consideration by a joint body on which, by virtue of any provision made by or under any enactment, that Minister is represented ; or
  - (b) to matters which cannot be settled without that Minister exercising a power conferred on him by or under an enactment.
- (3) There is a trade dispute for the purposes of this Act even though it relates to matters occurring outside Great Britain, so long as the person or persons whose actions in Great Britain are said to be in contemplation or furtherance of a trade dispute relating to matters occurring outside Great Britain are likely to be affected in respect of one or more of the matters specified in subsection (1) of this section by the outcome of that dispute.
- (4) A dispute to which a trade union or employers' association is a party shall be treated for the purposes of this Act as a dispute to which workers or, as the case may be, employers are parties.
- (5) An act, threat or demand done or made by one person or organisation against another which, if resisted, would have led to a trade dispute with that other, shall, notwithstanding that because that other submits to the act or threat or accedes to the demand no dispute arises, be treated for the purposes of this Act as being done or made in contemplation of a trade dispute with that other.
- (6) In this section—
- " employment " includes any relationship whereby one person personally does work or performs services for another;
  - " worker ", in relation to a dispute to which an employer is a party, includes any worker even if not employed by that employer.
- (7) In the Conspiracy and Protection of Property Act 1875 " trade dispute " has the same meaning as in this Act.

### **30 General provisions as to interpretation**

- (1) In this Act, except so far as the context otherwise requires,—
- " act " and " action " each includes omission and references to doing an act or taking action shall be construed accordingly;
  - " collective agreement " means any agreement or arrangement made by or on behalf of one or more trade unions and one or more employers or employers' associations and relating to one or more of the matters mentioned in section 29(1) above ;
  - " contract of employment " means a contract of service or of apprenticeship, whether it is express or implied and (if it is express) whether it is oral or in writing;
  - " dismissal procedures agreement " means an agreement in writing with respect to procedures relating to dismissal made by or on behalf of one or more independent trade unions and one or more employers or employers' associations ;

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

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" employee " means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment, otherwise than in police service ;

" employers' association " includes a combination of employers and employers' associations ;

" independent trade union " means a trade union which—

- (a) is not under the domination or control of an employer or a group of employers or of one or more employers' associations; and
- (b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control;

" individual proprietor " means an individual who is the owner of an undertaking ;

" 1971 Act " means the Industrial Relations Act 1971 ;

" official ", in relation to a trade union, means any person who is an officer of the union or of a branch or section of the union or who (not being such an officer) is a person elected or appointed in accordance with the rules of the union to be a representative of its members or of some of them, including any person so elected or appointed who is an employee of the same employer as the members, or one or more of the members, whom he is to represent;

" police service " means service—

- (a) in England and Wales as a member of a police force or as a special constable ;
- (b) as a constable within the meaning of the Police (Scotland) Act 1967 ;
- (c) as a member of any constabulary maintained by virtue of any enactment; or
- (d) in any other capacity by virtue of which a person has the powers or privileges of a constable;

" position ", in relation to an employee, means the following matters taken as a whole, that is to say, his status as an employee, the nature of his work and his terms and conditions of employment;

" Registrar " has the meaning assigned to it by section 8(1) above;

" special register body " means an organisation whose name was immediately before the commencement of sections 2 and 3 above entered in the special register maintained under section 84 of the 1971 Act and which for the time being is a company registered under the Companies Act 1948 or is incorporated by charter or letters patent;

" tort ", as respects Scotland, means any wrongful or negligent act giving rise to liability in reparation, and cognate expressions shall be construed accordingly;

" union membership agreement " means an agreement or arrangement which—

- (a) is made by or on behalf of, or otherwise exists between, one or more independent trade unions and one or more employers or employers' associations ; and
- (b) relates to employees of an identifiable class; and
- (c) has the effect of requiring the terms and conditions of employment of every employee of that class to include a condition that he must be or become a member of the union or one of the unions which is or are parties

to the agreement or arrangement or of another appropriate independent trade union;

" worker " (subject to the following provisions of this section) means an individual regarded in whichever (if any) of the following capacities is applicable to him, that is to say, as a person who works or normally works or seeks to work—

- (a) under a contract of employment; or
- (b) under any other contract (whether express or implied, and, if express, whether oral or in writing) whereby he undertakes to do or perform personally any work or services for another party to the contract who is not a professional client of his; or
- (c) in employment under or for the purposes of a government department (otherwise than as a member of the naval, military or air forces of the Crown or of any women's service administered by the Defence Council) in so far as any such employment does not fall within paragraph (a) or (b) above,

otherwise than in police service.

(2) Without prejudice to the generality of the definitions in subsection (1) of this section, in this Act—

- (a) " worker" includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person providing general medical services, pharmaceutical services, general dental services or general ophthalmic services in accordance with arrangements made by an Area Health Authority or Family Practitioner Committee under section 33, section 38, section 40 or section 41 of the National Health Service Act 1946 or by a Health Board under section 34, section 39, section 40 or section 42 of the National Health Service (Scotland) Act 1947; and
- (b) "employer" includes any Area Health Authority, Family Practitioner Committee or Health Board in accordance with whose arrangements a person provides or has provided or normally provides or seeks to provide any such service as aforesaid.

(3) Subject to subsection (4) below, in this Act " successor ", in relation to the employer of an employee, means a person who, in consequence of a change occurring (whether by virtue of a sale or other disposition or by operation of law) in the ownership of the undertaking or of part of the undertaking for the purposes of which the employee was employed, has become the owner of that undertaking or of that part of it, as the case may be.

(4) Subsection (3) above shall have effect (subject to the necessary modifications) in relation to a case where—

- (a) the person by whom an undertaking or part of an undertaking is owned immediately before a change is one of the persons by whom (whether as partners, trustees or otherwise) it is owned immediately after the change, or
- (b) the persons by whom an undertaking or part of an undertaking is owned immediately before a change (whether as partners, trustees or otherwise) include the persons by whom, or include one or more of the persons by whom, it is owned immediately after the change,

as that subsection has effect where the previous owner and the new owner are wholly different persons; and any reference in this Act to a successor of an employer shall be construed accordingly.

- (5) For the purposes of this Act any two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control; and in this Act " associated employer " shall be construed accordingly.
- (6) For the purposes of this Act it is immaterial whether the law which (apart from this Act) governs any persons' employment is the law of the United Kingdom, or of a part of the United Kingdom, or not.
- (7) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

### **31 Short title, commencement and extent**

- (1) This Act may be cited as the Trade Union and Labour Relations Act 1974.
- (2) This Act, except as provided by section 1(3) above and except sections 21 to 23 above, shall come into operation on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be so appointed for different purposes.
- (3) Any reference in this Act to the commencement of any provision of this Act shall be construed as a reference to the day appointed under this section for the coming into operation of that provision.
- (4) An order made under this section may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with the provisions of this Act which are thereby brought (wholly or in part) into operation, including such adaptations of those provisions or of any provision of this Act then in force as appear to the Secretary of State to be necessary or expedient in consequence of the partial operation of this Act (whether before, on or after the day appointed by the order).
- (5) The following provisions of this Act shall extend to Northern Ireland, that is to say, sections 4 and 19 and any provision of Schedule 3 or 5 to this Act which amends or repeals any provision of the House of Commons Disqualification Act 1957, the Trade Union (Amalgamations, etc.) Act (Northern Ireland) 1965, the Insurance Companies Act (Northern Ireland) 1968, the Merchant Shipping Act 1970 or the Insurance Companies Amendment Act 1973 or repeals any provision of the 1971 Act which extends to Northern Ireland, but except as aforesaid this Act shall not extend there.