



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *Crown employment, etc.*

#### **273 Crown employment.**

- (1) The provisions of this Act have effect (except as mentioned below) in relation to Crown employment and persons in Crown employment as in relation to other employment and other workers or employees.
- (2) The following provisions are excepted from subsection (1)—
  - [<sup>F1</sup>section 87(4)(b) (power of tribunal] to make order in respect of employer's failure to comply with duties as to union contributions);
  - sections 184 and 185 (remedy for failure to comply with declaration as to disclosure of information);
  - Chapter II of Part IV (procedure for handling redundancies).
- (3) In this section Crown employment means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by an enactment.
- (4) For the purposes of the provisions of this Act as they apply in relation to Crown employment or persons in Crown employment—
  - (a) employee and contract of employment mean a person in Crown employment and the terms of employment of such a person (but subject to subsection (5) below);
  - (b) dismissal means the termination of Crown employment;

*Status: Point in time view as at 01/02/2000.*

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- <sup>F2</sup>(c) .....
- (d) the reference in 182(1)(e) (disclosure of information for collective bargaining: restrictions on general duty) to the employer's undertaking shall be construed as a reference to the national interest; and
- (e) any other reference to an undertaking shall be construed, in relation to a Minister of the Crown, as a reference to his functions or (as the context may require) to the department of which he is in charge, and in relation to a government department, officer or body shall be construed as a reference to the functions of the department, officer or body or (as the context may require) to the department, officer or body.
- (5) Sections 137 to 143 (rights in relation to trade union membership: access to employment) apply in relation to Crown employment otherwise than under a contract only where the terms of employment correspond to those of a contract of employment.
- (6) This section has effect subject to section 274 (armed forces) and section 275 (exemption on grounds of national security).

#### Textual Amendments

- F1** Words in s. 273(2) substituted (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 8**; S.I. 1998/1658, art. 2(1), **Sch.**
- F2** S. 273(4)(c) repealed (30.8.1993) by 1993 c. 19, s. 51, **Sch. 10**; S.I. 1993/1908, art. 2(1), **Sch. 1**

#### 274 Armed forces.

- (1) Section 273 (application of Act to Crown employment) does not apply to service as a member of the naval, military or air forces of the Crown.
- (2) But that section applies to employment by an association established for the purposes of [<sup>F3</sup>Part XI of the Reserve Forces Act 1996] (territorial, auxiliary and reserve forces associations) as it applies to employment for the purposes of a government department.

#### Textual Amendments

- F3** Words in s. 274 substituted (1.4.1997) by 1996 c. 14, s. 131(1), **Sch. 10 para. 24** (with s. 72(5)); S.I. 1997/305, **art. 2(1)**

#### 275 Exemption on grounds of national security.

- (1) Section 273 (application of Act to Crown employment) does not apply to employment in respect of which there is in force a certificate issued by or on behalf of a Minister of the Crown certifying that employment of a description specified in the certificate, or the employment of a particular person so specified, is (or, at a time specified in the certificate, was) required to be excepted from that section for the purpose of safeguarding national security.
- (2) A document purporting to be such a certificate shall, unless the contrary is proved, be deemed to be such a certificate.

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## 276 Further provision as to Crown application.

- (1) Section 138 (refusal of service of employment agency on grounds related to union membership), and the other provisions of Part III applying in relation to that section, bind the Crown so far as they relate to the activities of an employment agency in relation to employment to which those provisions apply.

This does not affect the operation of those provisions in relation to Crown employment by virtue of section 273.

- (2) Sections 144 and 145 (prohibition of union membership requirements) and sections 186 and 187 (prohibition of union recognition requirements) bind the Crown.

*House of Lords and House of Commons staff*

## 277 House of Lords staff.

- (1) [<sup>F4</sup>The provisions of this Act (except those specified below)] apply in relation to employment as a relevant member of the House of Lords staff as in relation to other employment.

[<sup>F5</sup>(1A) The following provisions are excepted from subsection (1)—  
sections 184 and 185 (remedy for failure to comply with declaration as to disclosure of information),  
Chapter II of Part IV (procedure for handling redundancies).]

- (2) Nothing in any rule of law or the law or practice of Parliament prevents a person from bringing [<sup>F6</sup>a civil employment claim before the court or from bringing] before an [<sup>F7</sup>employment tribunal] proceedings of any description <sup>F8</sup>. . . which could be brought before such a tribunal in relation to other employment.

[<sup>F9</sup>(2A) For the purposes of the application of the other provisions of this Act as they apply by virtue of this section—

- (a) the reference in section 182(1)(e) (disclosure of information for collective bargaining: restrictions) to a person's undertaking shall be construed as a reference to the national interest or, if the case so requires, the interests of the House of Lords; and  
(b) any other reference to an undertaking shall be construed as a reference to the House of Lords.]

[<sup>F10</sup>(3) In this section—

relevant member of the House of Lords staff means any person who is employed under a contract of employment with the Corporate Officer of the House of Lords;

civil employment claim means a claim arising out of or relating to a contract of employment or any other contract connected with employment, or a claim in tort arising in connection with a person's employment; and

the court means the High Court or a county court.]

### Textual Amendments

- F4** Words in s. 277(1) substituted (30.11.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 12(a)**; S.I. 1993/2503, art. 2(2), **Sch. 2**

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- F5** S. 277(1A) inserted (30.11.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 12(b)**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F6** Words in s. 277(2) inserted (30.11.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 12(c)**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F7** Words in s. 277(2) 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**
- F8** Words in s. 277(2) repealed (30.11.1993) by 1993 c. 19, s. 51, **Sch. 10**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F9** S. 277(2A) inserted (30.11.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 12(d)**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F10** S. 277(3) substituted (30.11.1993) for s. 277(3)-(6) by 1993 c. 19, s. 49(1), **Sch. 7 para. 12(e)**; S.I. 1993/2503, art. 2(2), **Sch. 2**

## 278 House of Commons staff.

(1) The provisions of this Act (except those specified below) apply in relation to employment as a relevant member of the House of Commons staff as in relation to other employment.

(2) The following provisions are excepted from subsection (1)—

sections 184 and 185 (remedy for failure to comply with declaration as to disclosure of information),

Chapter II of Part IV (procedure for handling redundancies).

[<sup>F11</sup>(2A) Nothing in any rule of law or the law or practice of Parliament prevents a relevant member of the House of Commons staff from bringing a civil employment claim before the court or from bringing before an [<sup>F12</sup>employment tribunal]] proceedings of any description which could be brought before such a tribunal by any person who is not such a member.

(3) In this section relevant member of the House of Commons staff has the same meaning as in section 139 of the <sup>M1</sup>Employment Protection (Consolidation) Act 1978.

[<sup>F13</sup>civil employment claim means a claim arising out of or relating to a contract of employment or any other contract connected with employment, or a claim in tort arising in connection with a person's employment; and the court means the High Court or the county court.]

(4) For the purposes of the other provisions of this Act as they apply by virtue of this section—

- (a) employee and contract of employment include a relevant member of the House of Commons staff and the terms of employment of any such member (but subject to subsection (5) below);
- (b) dismissal includes the termination of any such member's employment;
- (c) the reference in [<sup>F14</sup>section] 182(1)(e) (disclosure of information for collective bargaining: restrictions on general duty) to the employer's undertaking shall be construed as a reference to the national interest or, if the case so requires, the interests of the House of Commons; and
- (d) any other reference to an undertaking shall be construed as a reference to the House of Commons.

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- (5) Sections 137 to 143 (access to employment) apply by virtue of this section in relation to employment otherwise than under a contract only where the terms of employment correspond to those of a contract of employment.
- (6) [<sup>F15</sup>Subsections (6) to (12) of section 195 of the Employment Rights Act 1996] (person to be treated as employer of House of Commons staff) apply, with any necessary modifications, for the purposes of this section.

#### Textual Amendments

- F11** S. 278(2A) inserted (30.11.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 85(a)**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F12** Words in s. 278(2A) 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**
- F13** Words in s. 278(3) inserted (30.11.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 85(b)**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F14** Words in s. 278(4)(c) inserted (30.8.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 27**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F15** Words in s. 278(6) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 56(17)** (with ss. 191-195, 202)

#### Marginal Citations

- M1** 1978 c. 44.

### *Health service practitioners*

#### **279 Health service practitioners.**

In this Act worker includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person [<sup>F16</sup>performing personal medical services or personal dental services or] providing general medical services, general dental services, general ophthalmic services or pharmaceutical services in accordance with arrangements made—

- (a) by a [<sup>F17</sup>Health Authority] under section [<sup>F18</sup>28C,] 29, 35, 38 or 41 of the <sup>M2</sup>National Health Service Act 1977, or
- (b) by a Health Board under section [<sup>F19</sup>17C,] 19, 25, 26, or 27 of the <sup>M3</sup>National Health Service (Scotland) Act 1978;

and employer, in relation to such an individual, regarded in that capacity, means that authority or board.

#### Textual Amendments

- F16** Words in s. 279 inserted (1.4.1998 subject to art. 3 of S.I. 1998/631) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 67(a)**; S.I. 1998/631, art. 2(1)
- F17** Words in s. 279(a) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. III para. 122** (with Sch. 2 para. 6)
- F18** Words in s. 279 inserted (1.4.1998 subject to art. 3 of S.I. 1998/631) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 67(b)**; S.I. 1998/631, art. 2(1)
- F19** Words in s. 279 inserted (1.4.1998 subject to art. 3 of S.I. 1998/631) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 67(c)**; S.I. 1998/631, art. 2(1)

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#### Marginal Citations

- M2** 1977 c. 49.  
**M3** 1978 c. 29.

### *Police service*

#### **280 Police service.**

- (1) In this Act employee or worker does not include a person in police service; and the provisions of sections 137 and 138 (rights in relation to trade union membership: access to employment) do not apply in relation to police service.
- (2) Police service means service as a member of any constabulary maintained by virtue of an enactment, or in any other capacity by virtue of which a person has the powers or privileges of a constable.

#### Modifications etc. (not altering text)

- C1** S. 280 modified (1.10.2002 for specified purposes and otherwise 1.4.2004) by 2002 c. 30, s. 13, Sch. 3 Pt. 3 para. 19(5)(a) (with s. 14(1)); S.I. 2002/2306, art. 4(e); S.I. 2004/913, art. 2(d)

### *Excluded classes of employment*

#### <sup>F20</sup>**281** .....

#### Textual Amendments

- F20** S. 281 repealed (6.2.1995) by S.I. 1995/31, regs. 5, 6, Sch.

#### **282 Short-term employment.**

- (1) The provisions of Chapter II of Part IV (procedure for handling redundancies) do not apply to employment—
  - (a) under a contract for a fixed term of three months or less, or
  - (b) under a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months,
 where the employee has not been continuously employed for a period of more than three months.

[<sup>F21</sup>(2) Chapter I of Part XIV of the Employment Rights Act 1996 (computation of period of continuous employment), and any provision modifying or supplementing that Chapter for the purposes of that Act, apply for the purposes of this section.]

#### Textual Amendments

- F21** S. 282(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 56(18) (with ss. 191-195, 202)

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<sup>F22</sup>283 .....

**Textual Amendments**

**F22** S. 283 repealed (30.8.1993) by 1993 c. 19, s. 51, **Sch.10**; S.I. 1993/1908, art. 2(1), **Sch. 1**

**284 Share fishermen.**

The following provisions of this Act do not apply to employment as master or as member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel—

In Part III (rights in relation to trade union membership and activities)—

sections 137 to 143 (access to employment),

sections 146 to 151 (action short of dismissal), and

sections 168 to 173 (time off for trade union duties and activities;

In Part IV, Chapter II (procedure for handling redundancies).

**285 Employment outside Great Britain.**

(1) The following provisions of this Act do not apply to employment where under his contract of employment an employee works, or in the case of a prospective employee would ordinarily work, outside Great Britain—

In Part III (rights in relation to trade union membership and activities)—

sections 137 to 143 (access to employment),

sections 146 to 151 (action short of dismissal), and

sections 168 to 173 (time off for trade union duties and activities;

In Part IV, [<sup>F23</sup>sections 193 and 194 (duty to notify Secretary of State of certain redundancies)].

(2) For the purposes of subsection (1) employment on board a ship registered in the United Kingdom shall be treated as employment where under his contract a person ordinarily works in Great Britain unless—

(a) the ship is registered at a port outside Great Britain, or

(b) the employment is wholly outside Great Britain, or

(c) the employee or, as the case may be, the person seeking employment or seeking to avail himself of a service of an employment agency, is not ordinarily resident in Great Britain.

**Textual Amendments**

**F23** Words in s. 285(1) substituted (25.10.1999) by 1999 c. 26, s. 32(1); S.I. 1999/2830, art. 2(1) **Sch. 1 Pt. I** (with **Sch. 3 para. 7**)

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## **286 Power to make further provision as to excluded classes of employment.**

- (1) This section applies in relation to the following provisions—
- In Part III (rights in relation to trade union membership and activities), sections 146 to 151 (action short of dismissal),
- In Part IV, Chapter II (procedure for handling redundancies), and
- In Part V (industrial action), section 237 (dismissal of those taking part in unofficial industrial action).
- (2) The Secretary of State may by order made by statutory instrument provide that any of those provisions—
- (a) shall not apply to persons or to employment of such classes as may be prescribed by the order, or
  - (b) shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so prescribed,
- and may vary or revoke any of the provisions of sections 281 to 285 above (excluded classes of employment) so far as they relate to any such provision.
- (3) Any such order shall be made by statutory instrument and may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (4) No such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

### *Offshore employment*

## **287 Offshore employment.**

- (1) In this Act offshore employment means employment for the purposes of activities—
- (a) in the territorial waters of the United Kingdom, or
  - (b) connected with the exploration of the sea-bed or subsoil, or the exploitation of their natural resources, in the United Kingdom sector of the continental shelf, or
  - (c) connected with the exploration or exploitation, in a foreign sector of the continental shelf, of a cross-boundary petroleum field.
- (2) Her Majesty may by Order in Council provide that—
- (a) the provisions of this Act, and
  - (b) any Northern Ireland legislation making provision for purposes corresponding to any of the purposes of this Act,
- apply, to such extent and for such purposes as may be specified in the Order and with or without modification, to or in relation to a person in offshore employment or, in relation to sections 137 to 143 (access to employment), a person seeking such employment.
- (3) An Order in Council under this section—
- (a) may make different provision for different cases;



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- (b) may provide that the enactments to which this section applies, as applied, apply—
- (i) to individuals whether or not they are British subjects, and
  - (ii) to bodies corporate whether or not they are incorporated under the law of a part of the United Kingdom,
- and apply notwithstanding that the application may affect the activities of such an individual or body outside the United Kingdom;
- (c) may make provision for conferring jurisdiction on any court or class of court specified in the Order, or on [<sup>F24</sup>employment tribunals], in respect of offences, causes of action or other matters arising in connection with offshore employment;
- (d) may provide that the enactments to which this section applies apply in relation to a person in offshore employment in a part of the areas referred to in subsection (1)(a) and (b);
- (e) may exclude from the operation of section 3 of the <sup>M4</sup>Territorial Waters Jurisdiction Act 1878 (consents required for prosecutions) proceedings for offences under the enactments to which this section applies in connection with offshore employment;
- (f) may provide that such proceedings shall not be brought without such consent as may be required by the Order;
- (g) may modify or exclude any of sections 281 to 285 (excluded classes of employment) or any corresponding provision of Northern Ireland legislation.

[<sup>F25</sup>(3A) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

(4) Any jurisdiction conferred on a court or tribunal under this section is without prejudice to jurisdiction exercisable apart from this section, by that or any other court or tribunal.

(5) In this section—

cross-boundary petroleum field means a petroleum field that extends across the boundary between the United Kingdom sector of the continental shelf and a foreign sector;

foreign sector of the continental shelf means an area outside the territorial waters of any state, within which rights with respect to the sea-bed and subsoil and their natural resources are exercisable by a state other than the United Kingdom;

petroleum field means a geological structure identified as an oil or gas field by the Order in Council concerned; and

United Kingdom sector of the continental shelf means the areas designated under section 1(7) of the <sup>M5</sup>Continental Shelf Act 1964.

#### Textual Amendments

**F24** Words in s. 287(3)(c) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(b) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

**F25** S. 287(3) inserted (25.10.1999) by 1999 c. 26, s. 32(2); S.I. 1999/2830, art. 2(1)(2) Sch. 1 Pt. I (with Sch. 3 para. 7)

#### Marginal Citations

**M4** 1878 c. 73.

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M5 1964 c. 29.

*Contracting out, &c.*

**288 Restriction on contracting out.**

- (1) Any provision in an agreement (whether a contract of employment or not) is void in so far as it purports—
- (a) to exclude or limit the operation of any provision of this Act, or
  - (b) to preclude a person from bringing—
    - (i) proceedings before an [<sup>F26</sup>employment tribunal] or the Central Arbitration Committee under any provision of this Act, or
    - (ii) an application to the Employment Appeal Tribunal under section 67 (remedy for infringement of right not to be unjustifiably disciplined) or section 176 (compensation for <sup>F27</sup> . . . exclusion or expulsion).
- (2) Subsection (1) does not apply to an agreement to refrain from instituting or continuing proceedings where a conciliation officer has taken action under— [<sup>F28</sup>section 18 of the [<sup>F26</sup>Employment Tribunals Act 1996] (conciliation)]
- [<sup>F29</sup>(2A) Subsection (1) does not apply to an agreement to refrain from instituting or continuing any proceedings, other than excepted proceedings, specified in [<sup>F30</sup>subsection (1) (b) of that section]] before an [<sup>F26</sup>employment tribunal] if the conditions regulating compromise agreements under this Act are satisfied in relation to the agreement.
- (2B) The conditions regulating compromise agreements under this Act are that—
- (a) the agreement must be in writing;
  - (b) the agreement must relate to the particular [<sup>F31</sup>proceedings];
  - (c) the complainant must have received [<sup>F32</sup>advice from a relevant independent adviser] as to the terms and effect of the proposed agreement and in particular its effect on his ability to pursue his rights before an [<sup>F26</sup>employment tribunal];
  - (d) there must be in force, when the adviser gives the advice, a [<sup>F33</sup>contract of insurance, or an indemnity provided for members of a profession or professional body,] covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
  - (e) the agreement must identify the adviser; and
  - (f) the agreement must state that the conditions regulating compromise agreements under this Act are satisfied.
- (2C) The proceedings excepted from subsection (2A) are proceedings on a complaint of non-compliance with section 188.
- (3) Subsection (1) does not apply—
- (a) to such an agreement as is referred to in section 185(5)(b) or (c) to the extent that it varies or supersedes an award under that section;
  - (b) to any provision in a collective agreement excluding rights under Chapter II of Part IV (procedure for handling redundancies), if an order under section 198 is in force in respect of it.
- [<sup>F34</sup>(4) A person is a relevant independent adviser for the purposes of subsection (2B)(c)—
- (a) if he is a qualified lawyer,

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- (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
  - (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
  - (d) if he is a person of a description specified in an order made by the Secretary of State.
- (4A) But a person is not a relevant independent adviser for the purposes of subsection (2B)
- (c) in relation to the complainant—
    - (a) if he is, is employed by or is acting in the matter for the other party or a person who is connected with the other party,
    - (b) in the case of a person within subsection (4)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
    - (c) in the case of a person within subsection (4)(c), if the complainant makes a payment for the advice received from him, or
    - (d) in the case of a person of a description specified in an order under subsection (4)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.
- (4B) In subsection (4)(a) qualified lawyer means—
- (a) as respects England and Wales, a barrister (whether in practice as such or employed to give legal advice), a solicitor who holds a practising certificate, or a person other than a barrister or solicitor who is an authorised advocate or authorised litigator (within the meaning of the <sup>M6</sup>Courts and Legal Services Act 1990), and
  - (b) as respects Scotland, an advocate (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.
- (4C) An order under subsection (4)(d) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) For the purposes of subsection (4A) any two persons are to be treated as connected—
- (a) if one is a company of which the other (directly or indirectly) has control, or
  - (b) if both are companies of which a third person (directly or indirectly) has control.]
- [<sup>F35</sup>(6) An agreement under which the parties agree to submit a dispute to arbitration—
- (a) shall be regarded for the purposes of subsections (2) and (2A) as being an agreement to refrain from instituting or continuing proceedings if—
    - (i) the dispute is covered by a scheme having effect by virtue of an order under section 212A, and
    - (ii) the agreement is to submit it to arbitration in accordance with the scheme, but
  - (b) shall be regarded for those purposes as neither being nor including such an agreement in any other case.]

*Status: Point in time view as at 01/02/2000.*

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**Textual Amendments**

- F26** Words in s. 288 substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a)(c) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F27** Words in s. 288(1)(b) repealed (30.11.1993) by 1993 c. 19, s. 51, **Sch. 10**; S.I. 1993/1908, art. 2(2), **Sch. 2**
- F28** Words in s. 288 substituted for paras. (a) and (b) (22.8.1996) by 1996 c. 17 ss. 43, 46, Sch. 1 para. 8(a) (with s. 38)
- F29** S. 288(2A)-(2C) inserted (30.8.1993) by 1993 c. 19, s. 39(2), **Sch. 6 para. 4(a)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F30** Words in s. 288(2A) substituted (22.8.1996) by 1996 c. 18, ss. 43, 46, **Sch. 1 para. 8(b)** (with s. 38)
- F31** Word in s. 288(2B)(b) substituted (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 9(2)**; S.I. 1998/1658, art. 2(1), **Sch. 1**
- F32** Words in s. 288(2B)(c) substituted (1.8.1998) by 1998 c. 8, s. 9(1)(2)(c); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F33** Words in s. 288(2B)(d) substituted (1.8.1998) by 1998 c. 8, s. 10(1)(2)(c); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F34** S. 288(4)(4A)(4B)(4C)(5) substituted for s. 288(4)(5) (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 9(3)**; S.I. 1998/1658, art. 2(1), **Sch.**
- F35** S. 288(6) inserted (1.8.1998) by 1998 c. 8, s. 8(3); S.I. 1998/1658, art. 2(1), **Sch. 1** (with art. 3(4))

**Marginal Citations**

- M6** 1990 c. 41.

**289 Employment governed by foreign law.**

For the purposes of this Act it is immaterial whether the law which (apart from this Act) governs any person’s employment is the law of the United Kingdom, or of a part of the United Kingdom, or not.

*[<sup>F36</sup>Employment tribunal] proceedings*

**Textual Amendments**

- F36** Words in cross-heading substituted (1.8.1998) by 1998 c. 8, s. 1(2) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

<sup>F37</sup>**290** .....

**Textual Amendments**

- F37** S. 290 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

**291**<sub>F38</sub>(1) .....

<sub>F39</sub>(2) .....

<sub>F39</sub>(3) .....

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#### Textual Amendments

- F38** S. 291(1) repealed (30.8.1993) by 1993 c. 19, ss. 49(2), 51, Sch. 8 para. 87(a), **Sch. 10**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F39** S. 291(2)(3) repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

#### *Other supplementary provisions*

### **292 Death of employee or employer.**

- (1) This section has effect in relation to the following provisions so far as they confer rights on employees or make provision in connection therewith—
  - (a) sections 146 to 151 (action short of dismissal taken on grounds related to union membership or activities);
  - (b) sections 168 to 173 (time off for trade union duties and activities);
  - (c) sections 188 to 198 (procedure for handling redundancies).
- (2) Where the employee or employer dies, tribunal proceedings may be instituted or continued by a personal representative of the deceased employee or, as the case may be, defended by a personal representative of the deceased employer.
- (3) If there is no personal representative of a deceased employee, tribunal proceedings or proceedings to enforce a tribunal award may be instituted or continued on behalf of his estate by such other person as the [<sup>F40</sup>employment tribunal] may appoint, being either—
  - (a) a person authorised by the employee to act in connection with the proceedings before his death, or
  - (b) the widower, widow, child, father, mother, brother or sister of the employee.In such a case any award made by the [<sup>F40</sup>employment tribunal] shall be in such terms and shall be enforceable in such manner as may be prescribed.
- (4) Any right arising under any of the provisions mentioned in subsection (1) which by virtue of this section accrues after the death of the employee in question shall devolve as if it had accrued before his death.
- (5) Any liability arising under any of those provisions which by virtue of this section accrues after the death of the employer in question shall be treated for all purposes as if it had accrued immediately before his death.

#### Textual Amendments

- F40** Words in s. 292(3) 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**

### **293 Regulations.**

- (1) The Secretary of State may by regulations prescribe anything authorised or required to be prescribed for the purposes of this Act.
- (2) The regulations may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient.

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- (3) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **294 Reciprocal arrangements with Northern Ireland.**

- (1) If provision is made by Northern Ireland legislation for purposes corresponding to the purposes of any provision of this Act re-enacting a provision of the <sup>M7</sup>Employment Protection Act 1975 or the <sup>M8</sup>Employment Protection (Consolidation) Act 1978, the Secretary of State may, with the consent of the Treasury, make reciprocal arrangements with the appropriate Northern Ireland authority for co-ordinating the relevant provisions of this Act with the corresponding Northern Ireland provisions so as to secure that they operate, to such extent as may be provided by the arrangements, as a single system.
- (2) The Secretary of State may make regulations for giving effect to any such arrangements.
- (3) The regulations may make different provision for different cases and may contain such supplementary, incidental and transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (4) The regulations may provide that the relevant provisions of this Act shall have effect in relation to persons affected by the arrangements subject to such modifications and adaptations as may be specified in the regulations, including provisions—
- (a) for securing that acts, omission and events having any effect for the purposes of the Northern Ireland legislation have a corresponding effect for the purposes of the relevant provisions of this Act (but not so as to confer a right to double payment in respect of the same act, omission or event, and
  - (b) for determining, in cases where rights accrue both under the relevant provisions of this Act and under the Northern Ireland legislation, which of this rights is available to the person concerned.
- (5) In this section the appropriate Northern Ireland authority means such authority as is specified in that behalf in the Northern Ireland legislation.
- (6) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **Marginal Citations**

**M7** 1975 c. 71.

**M8** 1978 c. 44.

## *Interpretation*

## **295 Meaning of employee and related expressions.**

- (1) In this Act—  
contract of employment means a contract of service or of apprenticeship,

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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, and

employer, in relation to an employee, means the person by whom the employee is (or, where the employment has ceased, was) employed.

- (2) Subsection (1) has effect subject to section 235 and other provisions conferring a wider meaning on contract of employment or related expressions.

## 296 Meaning of worker and related expressions.

- (1) In this Act worker means an individual who works, or normally works or seeks to work—

- (a) under a contract of employment, or
- (b) under any other contract 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) in so far as such employment does not fall within paragraph (a) or (b) above.

- (2) In this Act employer, in relation to a worker, means a person for whom one or more workers work, or have worked or normally work or seek to work.

[<sup>F41</sup>(3) This section has effect subject to section 68(11).]

### Textual Amendments

**F41** S. 296(3) inserted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para.88**; S.I. 1993/1908, art. 2(1), **Sch. 1**

## 297 Associated employers.

For the purposes of this Act any two employers shall be treated as associated if—

- (a) one is a company of which the other (directly or indirectly) has control, or
  - (b) both are companies of which a third person (directly or indirectly) has control;
- and associated employer shall be construed accordingly.

## 298 Minor definitions: general.

In this Act, unless the context otherwise requires—

act and action each includes omission, and references to doing an act or taking action shall be construed accordingly;

contravention includes a failure to comply, and cognate expressions shall be construed accordingly;

dismiss, dismissal and effective date of termination, in relation to an employee, shall be construed in accordance with [<sup>F42</sup>Part X of the Employment Rights Act 1996];

post means a postal service which—

- (a) is provided by the Post Office or under a licence granted under section 68 of the <sup>M9</sup>British Telecommunications Act 1981, or

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(b) does not by virtue of an order made under section 69 of that Act (suspension of postal privilege) infringe the exclusive privilege conferred on the Post Office by section 66(1) of that Act;  
tort, as respects Scotland, means delict, and cognate expressions shall be construed accordingly.

#### Textual Amendments

**F42** Words in s. 298 substituted (22.8.1996) by 1996 c. 17, ss. 240, 243, Sch. 1 para. 56(19) (with ss. 191-195, 202)

#### Marginal Citations

**M9** 1981 c.38.

## 299 Index of defined expressions.

In this Act the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions indicated—

ACAS	section 247(1)
act and action	section 298
advertisement (in sections 137 to 143)	section 143(1)
[ <sup>F43</sup> affected employees (in Part IV, Chapter II)]	[ <sup>F43</sup> section 196(3)]
[ <sup>F44</sup> agent (of trade union)]	[ <sup>F44</sup> section 119]
appropriately qualified actuary (in sections 38 to 41)	section 42
associated employer	section 297
branch or section (of trade union)	section 119
collective agreement and collective bargaining	section 178(1)
<b>F45</b>	<b>F45</b>
. . .	. . .
contract of employment	
—generally	section 295(1)
—in sections 226 to 234	section 235
—in relation to Crown employment	section 273(4)(a)
—in relation to House of Lords or House of Commons staff	sections 277(4) and 278(4)(a)
contravention	section 298
the court (in Part I)	section 121
date of the ballot (in Part V)	section 246



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dismiss and dismissal	
—generally	section 298
—in relation to Crown employment	section 273(4)(c)
—in relation to House of Commons staff	section 278(4)(b)
[ <sup>F44</sup> the duty of confidentiality]	[ <sup>F44</sup> section 24A(3)]
effective date of termination	section 298
employee	
—generally	section 295(1)
—in relation to Crown employment	section 273(4)(a)
—in relation to House of Commons staff	section 278(4)(a)
—excludes police service	section 280
[ <sup>F46</sup> employee representatives (in Part IV, Chapter II)]	[ <sup>F46</sup> section 196(1).]
employer	
—in relation to an employee	section 295(1)
—in relation to a worker	section 296(2)
—in relation to health service practitioners	section 279
employment and employment agency (in sections 137 to 143)	section 143(1)
executive (of trade union)	section 119
[ <sup>F44</sup> financial affairs (of trade union)]	[ <sup>F44</sup> section 119]
financial year (in Part VI)	section 272
general secretary	section 119
independent trade union (and related expressions)	section 5
list	
—of trade unions	section 2
—of employers' associations	section 123
Northern Ireland union (in Part I)	section 120
not protected (in sections 222 to 226)	section 219(4)
officer	
—of trade union	section 119
—of employers' association	section 136
official (of trade union)	section 119
offshore employment	section 287

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place of work (in Part V)	section 246
political fund	section 82(1)(a)
political resolution	section 82(1)(a)
post	section 298
prescribed	section 293(1)
president	section 119
recognised, recognition and related expressions	section 178(3)
F45	
...	
F45	F45
...	...
F45	F45
...	...
[ <sup>F47</sup> representatives of a trade union (in Part IV, Chapter II)]	[ <sup>F47</sup> section 196(2)]
rules (of trade union)	section 119
strike (in Part V)	section 246
tort (as respects Scotland)	section 298
trade dispute	
—in Part IV	section 218
—in Part V	section 244
trade union	section 1
undertaking (of employer)	
—in relation to Crown employment	section 273(4)(e) and (f)
—in relation to House of Commons staff	section 278(4)(c) and (d)
worker	
—generally	section 296(1)
—includes health service practitioners	section 279
—excludes police service	section 280
working hours (in Part V)	section 246

#### Textual Amendments

- F43** Entry in s. 299 relating to affecting employees inserted (28.7.1999) by S.I. 1999/1925, **reg. 7**
- F44** Entries in s. 299 inserted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 89**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F45** Entries in s. 299 repealed (30.8.1993) by 1993 c. 19, s. 51, **Sch. 10**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F46** Entry in s. 299 inserted (26.10.1995) by S.I. 1995/2587, **reg. 7(2)**

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**F47** Entry in s. 299 substituted (26.10.1995) by S.I. 1995/2587, reg. 7(3)

### *Final provisions*

## **300 Repeals, consequential amendments, transitional provisions and savings.**

- (1) The enactments specified in Schedule 1 are repealed to the extent specified.
- (2) The enactments specified in Schedule 2 are amended in accordance with that Schedule, the amendments being consequential on the provisions of this Act.
- (3) Schedule 3 contains transitional provisions and savings.

## **301 Extent.**

- (1) This Act extends to England and Wales and <sup>F48</sup>(apart from section 212A(6)) to Scotland.
- (2) The following provisions of this Act extend to Northern Ireland—
  - (a) sections 13 and 14 (provisions as to property held in trust for trade union), and section 129 (application of provisions to employers' associations) so far as it applies those sections;
  - (b) Chapter VI of Part I (application of funds for political objects), except sections 86 to 88 (duties of employer who deducts union contributions), for the purposes of the application of that Chapter to trade unions or unincorporated employers' associations having their head or main office outside Northern Ireland;
  - (c) section 287 (offshore employment);
  - (d) section 294 (reciprocal arrangements with Northern Ireland);
  - (e) Schedule 1 (repeals) so far as it relates to enactments which extend to Northern Ireland, other than the <sup>M10</sup>Conspiracy and Protection of Property Act 1875;
  - (f) Schedules 2 and 3 (consequential amendments, transitional provisions and savings), so far as they relate to enactments which extend to Northern Ireland;but this Act does not otherwise extend there.
- (3) Subsection (2)(b) does not affect the operation of <sup>F49</sup>Article 71(2) to (4) of the Trade Union and Labour Relations (Northern Ireland) Order 1995] (application of Northern Ireland law to contributions by members in Northern Ireland); and the closing words of that subsection do not affect the operation in relation to persons or property in Northern Ireland of any provision of Chapter VII of Part I (amalgamations and similar matters) which is capable of so applying as part of the law of England and Wales or Scotland.

### **Textual Amendments**

- F48** Words in s. 301(1) inserted (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 10**; S.I. 1998/1658, art. 2(1), **Sch. 1**
- F49** Words in s. 301(3) substituted (1.10.1995) by S.I. 1995/1980 (N.I. 12), art. 150(2), **Sch. 2**; S.R. 1995/354, **art. 2(1)**

### **Marginal Citations**

- M10** 1875 c. 86.

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**302 Commencement.**

This Act comes into force at the end of the period of three months beginning with the day on which it is passed.

**303 Short title.**

This Act may be cited as the Trade Union and Labour Relations (Consolidation) Act 1992.

**Status:**

Point in time view as at 01/02/2000.

**Changes to legislation:**

Trade Union and Labour Relations (Consolidation) Act 1992, Part VII is up to date with all changes known to be in force on or before 02 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.