



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *Interpretation*

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

(1) In this Act—

contract of employment means a contract of service or of apprenticeship,  
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

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- (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>F1</sup>(3) This section has effect subject to [<sup>F2</sup>sections 68(4), 145F(3) and 151(1B)].]

#### Textual Amendments

- F1** 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**
- F2** Words in s. 296(3) substituted (1.10.2004) by **Employment Relations Act 2004** (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 21**; S.I. 2004/2566, **art. 3(b)** (with arts. 4-8)

#### 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;

[<sup>F3</sup>“agency worker” has the meaning given in regulation 3 of the Agency Workers Regulations 2010;]

[<sup>F4</sup>“certificate of independence” means a certificate issued under—

- (a) section 6(6), or
- (b) section 101A(4);]

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>F5</sup>Part X of the Employment Rights Act 1996];

<sup>F6</sup>  
 . . .

tort, as respects Scotland, means delict, and cognate expressions shall be construed accordingly.

#### Textual Amendments

- F3** Words in s. 298 inserted (1.10.2011) by **The Agency Workers Regulations 2010** (S.I. 2010/93), reg. 1(1), **Sch. 2 para. 5**
- F4** S. 298: definition inserted (6.4.2005) by **Employment Relations Act 2004** (c. 24), ss. 50(4), 59(2)-(4); S.I. 2005/872, **art. 4, Sch.** (with arts. 6-21)
- F5** 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)

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**F6** S. 298: Definition of post repealed (26.3.2001) by [S.I. 2001/1149](#), art. 3(2), [Sch. 2](#)

## 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>F7</sup> affected employees (in Part IV, Chapter II)]	[ <sup>F7</sup> section 196(3)]
[ <sup>F8</sup> agency worker]	[ <sup>F8</sup> section 298]
[ <sup>F9</sup> agent (of trade union)]	[ <sup>F9</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
[ <sup>F10</sup> certificate of independence	section 298.]
collective agreement and collective bargaining	section 178(1)
F11	F11
. . .	. . .
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
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>F9</sup> the duty of confidentiality]	[ <sup>F9</sup> section 24A(3)]
effective date of termination	section 298
employee	

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—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>F12</sup> employee representatives (in Part IV, Chapter II)]	[ <sup>F12</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>F9</sup> financial affairs (of trade union)]	[ <sup>F9</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
<sup>F13</sup>	<sup>F13</sup>
.....	.....
political fund	section 82(1)(a)
political resolution	section 82(1)(a)
<sup>F14</sup>	<sup>F14</sup>
...	...
prescribed	section 293(1)
president	section 119

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recognised, recognition and related expressions	section 178(3)
F11	
...	
F11	F11
...	...
F11	F11
...	...
[ <sup>F15</sup> representatives of a trade union (in Part IV, Chapter II)]	[ <sup>F15</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

- F7** Entry in s. 299 relating to affecting employees inserted (28.7.1999) by S.I. 1999/1925, **reg. 7**
- F8** Words in s. 299 inserted (1.10.2011) by [The Agency Workers Regulations 2010](#) (S.I. 2010/93), **reg. 1(1)**, **Sch. 2 para. 6**
- F9** 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**
- F10** S. 299: entry inserted (6.4.2005) by [Employment Relations Act 2004](#) (c. 24), **ss. 50(5)**, 59(2)-(4); S.I. 2005/872, **art. 4**, **Sch.** (with arts. 6-21)
- F11** 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**
- F12** Entry in s. 299 inserted (26.10.1995) by S.I. 1995/2587, **reg. 7(2)**
- F13** S. 299: entry repealed (6.4.2005) by [Employment Relations Act 2004](#) (c. 24), **ss. 57(1)(2)**, 59(2)-(4), **Sch. 1 para. 22**, **Sch. 2**; S.I. 2005/872, **art. 4**, **Sch.** (with arts. 6-21)
- F14** Entry in s. 299 relating to post repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2**
- F15** Entry in s. 299 substituted (26.10.1995) by S.I. 1995/2587, **reg. 7(3)**

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