



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART VI

ADMINISTRATIVE PROVISIONS

ACAS

247 ACAS.

- (1) There shall continue to be a body called the Advisory, Conciliation and Arbitration Service (referred to in this Act as ACAS).
- (2) ACAS is a body corporate of which the corporators are the members of its Council.
- (3) Its functions, and those of its officers and servants, shall be performed on behalf of the Crown, but not so as to make it subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise its functions under any enactment.
- (4) For the purposes of civil proceedings arising out of those functions the ^{M1}Crown Proceedings Act 1947 applies to ACAS as if it were a government department and the ^{M2}Crown Suits (Scotland) Act 1857 applies to it as if it were a public department.
- (5) Nothing in section 9 of the ^{M3}Statistics of Trade Act 1947 (restriction on disclosure of information obtained under that Act) shall prevent or penalise the disclosure to ACAS, for the purposes of the exercise of any of its functions, of information obtained under that Act by a government department.
- (6) ACAS shall maintain offices in such of the major centres of employment in Great Britain as it thinks fit for the purposes of discharging its functions under any enactment.

Status: Point in time view as at 30/08/1993. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Part VI is up to date with all changes known to be in force on or before 24 May 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. (See end of Document for details)

Marginal Citations

M1 1947 c. 44.

M2 1857 c. 44.

M3 1947 c. 39.

248 The Council of ACAS.

- (1) ACAS shall be directed by a Council which, subject to the following provisions, shall consist of a chairman and nine ordinary members appointed by the Secretary of State.
- (2) Before appointing those ordinary members of the Council, the Secretary of State shall—
 - (a) as to three of them, consult such organisations representing employers as he considers appropriate, and
 - (b) as to three of them, consult such organisations representing workers as he considers appropriate.
- (3) The Secretary of State may, if he thinks fit, appoint a further two ordinary members of the Council (who shall be appointed so as to take office at the same time); and before making those appointments he shall—
 - (a) as to one of them, consult such organisations representing employers as he considers appropriate, and
 - (b) as to one of them, consult such organisations representing workers as he considers appropriate.
- (4) The Secretary of State may appoint up to three deputy chairman who may be appointed from the ordinary members, or in addition to those members.
- (5) The Council shall determine its own procedure, including the quorum necessary for its meetings.
- (6) If the Secretary of State has not appointed a deputy chairman, the Council may choose a member to act as chairman in the absence or incapacity of the chairman.
- (7) The validity of proceedings of the Council is not affected by any vacancy among the members of the Council or by any defect in the appointment of any of them.

249 Terms of appointment of members of Council.

- (1) The members of the Council shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.
- (2) ^{F1} . . .
 Appointment as [^{F2}chairman, or as] deputy chairman, or as an ordinary member of the Council, may be a full-time or part-time appointment; and the Secretary of State may, with the consent of the member concerned, vary the terms of his appointment as to whether his appointment is full-time or part-time.
- (3) A person shall not be appointed to the Council for a term exceeding five years, but previous membership does not affect eligibility for re-appointment.

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- (4) A member may at any time resign his membership, and the chairman or a deputy chairman may at any time resign his office as such, by notice in writing to the Secretary of State.

A deputy chairman appointed in addition to the ordinary members of the Council shall on resigning his office as deputy chairman cease to be a member of the Council.

- (5) If the Secretary of State is satisfied that a member—
- (a) has been absent from meetings of the Council for a period longer than six consecutive months without the permission of the Council, or
 - (b) has become bankrupt or made an arrangement with his creditors (or, in Scotland, has had his estate sequestrated or has made a trust deed for his creditors or has made and had accepted a composition contract), or
 - (c) is incapacitated by physical or mental illness, or
 - (d) is otherwise unable or unfit to discharge the functions of a member,

the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as he thinks fit, whereupon the office shall become vacant.

If the chairman or a deputy chairman ceases to be a member of the Council, he shall also cease to be chairman or, as the case may be, a deputy chairman.

Textual Amendments

- F1** Words in s. 249(2) repealed (30.8.1993) by 1993 c. 19, ss. 43(3), 51, **Sch.10**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F2** Words in s. 249(2) inserted (30.8.1993) by 1993 c. 19, s. 43(3); S.I. 1993/1908, art. 2(1), **Sch.1**

250 Remuneration, &c. of members of Council.

- (1) ACAS shall pay to the members of its Council such remuneration and travelling and other allowances as may be determined by the Secretary of State.
- (2) The Secretary of State may pay, or make provision for payment, to or in respect of a member of the Council such pension, allowance or gratuity on death or retirement as he may determine.
- (3) Where a person ceases to be the holder of the Council otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, he may make him a payment of such amount he may determine.
- (4) The approval of the Treasury is required for any determination by the Secretary of State under this section.

Modifications etc. (not altering text)

- C1** S. 250: transfer of functions (1.4.1995) by virtue of S.I. 1995/269, art. 3, **Sch. para. 21**

251 Secretary, officers and staff of ACAS.

- (1) ACAS may, with the approval of the Secretary of State, appoint a secretary.

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The consent of the Secretary of State is required as to his terms and conditions of service.

- (2) ACAS may appoint such other officers and staff as it may determine.

The consent of the Secretary of State is required as to their numbers, manner of appointment and terms and conditions of service.

- (3) The Secretary of State shall not give his consent under subsection (1) or (2) without the approval of the Treasury.

- (4) ACAS shall pay to the Treasury, at such times in each accounting year as may be determined by the Treasury, sums of such amounts as may be so determined as being equivalent to the increase in that year of such liabilities of his as are attributable to the provision of pensions, allowances or gratuities to or in respect of persons who are or have been in the service of ACAS in so far as that increase results from the service of those persons during that accounting year and to the expense to be incurred in administering those pensions, allowances or gratuities.

- (5) The fixing of the common seal of ACAS shall be authenticated by the signature of the secretary of ACAS or some other person authorised by ACAS to act for that purpose.

A document purporting to be duly executed under the seal of ACAS shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

[^{F3}251A Fees for exercise of functions by ACAS.

- (1) ACAS may, in any case in which it thinks it appropriate to do so, but subject to any directions under subsection (2) below, charge a fee for exercising a function in relation to any person.

- (2) The Secretary of State may direct ACAS to charge fees, in accordance with the direction, for exercising any function specified in the direction, but the Secretary of State shall not give a direction under this subsection without consulting ACAS.

- (3) A direction under subsection (2) above may require ACAS to charge fees in respect of the exercise of a function only in specified descriptions of case.

- (4) A direction under subsection (2) above shall specify whether fees are to be charged in respect of the exercise of any specified function—

- (a) at the full economic cost level, or
- (b) at a level less than the full economic cost but not less than a specified proportion or percentage of the full economic cost.

- (5) Where a direction requires fees to be charged at the full economic cost level ACAS shall fix the fee for the case at an amount estimated to be sufficient to cover the administrative costs of ACAS of exercising the function including an appropriate sum in respect of general staff costs and overheads.

- (6) Where a direction requires fees to be charged at a level less than the full economic cost ACAS shall fix the fee for the case at such amount, not being less than the proportion or percentage of the full economic cost specified under subsection (4)(b) above, as it thinks appropriate (computing that cost in the same way as under subsection (5) above).

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- (7) No liability to pay a fee charged under this section shall arise on the part of any person unless ACAS has notified that person that a fee may or will be charged.
- (8) For the purposes of this section—
- (a) a function is exercised in relation to a person who avails himself of the benefit of its exercise, whether or not he requested its exercise and whether the function is such as to be exercisable in relation to particular persons only or in relation to persons generally; and
 - (b) where a function is exercised in relation to two or more persons the fee chargeable for its exercise shall be apportioned among them as ACAS thinks appropriate.]

Textual Amendments

F3 S. 251A inserted (30.8.1993) by 1993 c. 19, s.44; S.I. 1993/1908, art. 2(1), Sch.1

252 General financial provisions.

- (1) The Secretary of State shall pay to ACAS such sums as are approved by the Treasury and as he considers appropriate for the purpose of enabling ACAS to perform its functions.
- (2) ACAS may pay to—
 - (a) persons appointed under section 210(2) (conciliation) who are not officers or servants of ACAS, and
 - (b) arbitrators or arbiters appointed by ACAS under any enactment,such fees and travelling and other allowances as may be determined by the Secretary of State with the approval of the Treasury.

253 Annual report and accounts.

- (1) ACAS shall as soon as practicable after the end of each calendar year make a report to the Secretary of State on its activities during that year.

The Secretary of State shall lay a copy of the report before each House of Parliament and arrange for it to be published.
- (2) ACAS shall keep proper accounts and proper records in relation to the accounts and shall prepare in respect of each financial year a statement of accounts, in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (3) ACAS shall not later than 30th November following the end of the financial year to which the statement relates, send copies of the statement to the Secretary of State and to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General shall examine, certify and report on each such statement and shall lay a copy of the statement and of his report before each House of Parliament.

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The Certification Officer

254 The Certification Officer.

- (1) There shall continue to be an officer called the Certification Officer.
- (2) The Certification Officer shall be appointed by the Secretary of State after consultation with ACAS.
- (3) The Certification Officer may appoint one or more assistant certification officers and shall appoint an assistant certification officer for Scotland.
- (4) The Certification Officer may delegate to an assistant certification officer such functions as he thinks appropriate, and in particular may delegate to the assistant certification officer for Scotland such functions as he thinks appropriate in relation to organisations whose principal office is in Scotland.

References to the Certification Officer in enactments relating to his functions shall be construed accordingly.

- (5) ACAS shall provide for the Certification Officer the requisite staff (from among the officers and servants of ACAS) and the requisite accommodation, equipment and other facilities.
- [^{F4}(5A) Subject to subsection (6), ACAS shall pay to the Certification Officer such sums as he may require for the performance of any of his functions.]
- (6) The Secretary of State shall pay to the Certification Officer such sums as he may require for making payments under the scheme under section 115 (payments towards expenditure in connection with secret ballots).

Textual Amendments

F4 S. 254(5A) inserted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para.78**; S.I. 1993/1908, art. 2(1), **Sch. 1**

255 Remuneration, &c. of Certification Officer and assistants.

- (1) ACAS shall pay to the Certification Officer and any assistant certification officer such remuneration and travelling and other allowances as may be determined by the Secretary of State.
- (2) The Secretary of State may pay, or make provision for payment, to or in respect of the Certification Officer and any assistant certification officer such pension, allowance or gratuity on death or retirement as he may determine.
- (3) Where a person ceases to be the Certification Officer or an assistant certification officer otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, he may make him a payment of such amount he may determine.
- (4) The approval of the Treasury is required for any determination by the Secretary of State under this section.

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256 Procedure before the Certification Officer.

- (1) Except in relation to matters as to which express provision is made by or under an enactment, the Certification Officer may regulate the procedure to be followed—
 - (a) on any application or complaint made to him, or
 - (b) where his approval is sought with respect to any matter.
- (2) He shall, in particular, make such provision as he thinks appropriate for restricting the circumstances in which the identity of an individual who has made, or is proposing to make, any such application or complaint is disclosed to any person.
- (3) The Secretary of State may, with the consent of the Treasury, make a scheme providing for the payment by the Certification Officer to persons of such sums as may be specified in or determined under the scheme in respect of expenses incurred by them for the purposes of, or in connection with, their attendance at hearings held by him in the course of carrying out his functions.

^{F5}(4)

Textual Amendments

F5 S. 256(4) repealed (30.8.1993) by 1993 c. 19, s. 51, Sch.10; S.I. 1993/1908, art. 2(1), Sch. 1

VALID FROM 06/04/2005

~~[^{F6}256ZA~~ Striking out

- (1) At any stage of proceedings on an application or complaint made to the Certification Officer, he may—
 - (a) order the application or complaint, or any response, to be struck out on the grounds that it is scandalous, vexatious, has no reasonable prospect of success or is otherwise misconceived,
 - (b) order anything in the application or complaint, or in any response, to be amended or struck out on those grounds, or
 - (c) order the application or complaint, or any response, to be struck out on the grounds that the manner in which the proceedings have been conducted by or on behalf of the applicant or complainant or (as the case may be) respondent has been scandalous, vexatious, or unreasonable.
- (2) The Certification Officer may order an application or complaint made to him to be struck out for excessive delay in proceeding with it.
- (3) An order under this section may be made on the Certification Officer's own initiative and may also be made—
 - (a) if the order sought is to strike out an application or complaint, or to amend or strike out anything in an application or complaint, on an application by the respondent, or
 - (b) if the order sought is to strike out any response, or to amend or strike out anything in any response, on an application by the person who made the application or complaint mentioned in subsection (1).

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- (4) Before making an order under this section, the Certification Officer shall send notice to the party against whom it is proposed that the order should be made giving him an opportunity to show cause why the order should not be made.
- (5) Subsection (4) shall not be taken to require the Certification Officer to send a notice under that subsection if the party against whom it is proposed that the order under this section should be made has been given an opportunity to show cause orally why the order should not be made.
- (6) Nothing in this section prevents the Certification Officer from making further provision under section 256(1) about the striking out of proceedings on any application or complaint made to him.
- (7) An appeal lies to the Employment Appeal Tribunal on any question of law arising from a decision of the Certification Officer under this section.
- (8) In this section—
 - “response” means any response made by a trade union or other body in the exercise of a right to be heard, or to make representations, in response to the application or complaint;
 - “respondent” means any trade union, or other body, that has such a right.]

Textual Amendments

- F6** S. 256ZA inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 48, 59(2)-(4)**; [S.I. 2005/872](#), **art. 4**, Sch. (with [arts. 6-21](#))

VALID FROM 25/10/1999

[^{F7}256A Vexatious litigants.

- (1) The Certification Officer may refuse to entertain any application or complaint made to him under a provision of Chapters III to VIIA of Part I by a vexatious litigant.
- (2) The Certification Officer must give reasons for such a refusal.
- (3) Subsection (1) does not apply to a complaint under section 37E(1)(b) or to an application under section 41.
- (4) For the purposes of subsection (1) a vexatious litigant is a person who is the subject of—
 - (a) an order which is made under section 33(1) of the ^{M4}Employment Tribunals Act 1996 and which remains in force,
 - (b) a civil proceedings order or an all proceedings order which is made under section 42(1) of the ^{M5}Supreme Court Act 1981 and which remains in force,
 - (c) an order which is made under section 1 of the ^{M6}Vexatious Actions (Scotland) Act 1898, or
 - (d) an order which is made under section 32 of the ^{M7}Judicature (Northern Ireland) Act 1978.]

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Textual Amendments

F7 Ss. 256A, 256B inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 paras. 1, **23**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 5)

Marginal Citations

M4 1996 c. 17.

M5 1981 c. 54.

M6 1898 c. 35.

M7 1978 c. 23.

VALID FROM 25/10/1999

[^{F8}256B Vexatious litigants: applications disregarded.

- (1) For the purposes of a relevant enactment an application to the Certification Officer shall be disregarded if—
- (a) it was made under a provision mentioned in the relevant enactment, and
 - (b) it was refused by the Certification Officer under section 256A(1).
- (2) The relevant enactments are sections 26(8), 31(7), 45C(5B), 56(8), 72A(10), 81(8) and 108A(13).]

Textual Amendments

F8 Ss. 256A, 256B inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 paras. 1, **23**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 5)

257 Custody of documents submitted under earlier legislation.

- (1) The Certification Officer shall continue to have custody of the annual returns, accounts, copies of rules and other documents submitted for the purposes of—
- (a) the Trade Union Acts 1871 to 1964,
 - (b) the ^{M8}Industrial Relations Act 1971, or
 - (c) the ^{M9}Trade Union and Labour Relations Act 1974,
- of which he took custody under section 9 of the ^{M10}Employment Protection Act 1975.
- (2) He shall keep available for public inspection (either free of charge or on payment of a reasonable charge) at all reasonable hours such of those documents as were available for public inspection in pursuance of any of those Acts.

Marginal Citations

M8 1971 c. 72.

M9 1974 c. 52.

M10 1975 c. 71.

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258 Annual report and accounts.

- (1) The Certification Officer shall, as soon as practicable after the end of each calendar year, make a report of his activities during that year to ACAS and to the Secretary of State.

The Secretary of State shall lay a copy of the report before each House of Parliament and arrange for it to be published.

- (2) The accounts prepared by ACAS in respect of any financial year shall show separately any sums disbursed to or on behalf of the Certification Officer in consequence of the provisions of this Part.

Central Arbitration Committee

259 The Central Arbitration Committee.

- (1) There shall continue to be a body called the Central Arbitration Committee.
- (2) The functions of the Committee shall be performed on behalf of the Crown, but not so as to make it subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise its functions.
- (3) ACAS shall provide for the Committee the requisite staff (from among the officers and servants of ACAS) and the requisite accommodation, equipment and other facilities.

260 The members of the Committee.

- (1) The Central Arbitration Committee shall consist of a chairman appointed by the Secretary of State after consultation with ACAS and other members appointed by the Secretary of State as follows.
- (2) The members of the Committee apart from the chairman shall be appointed by the Secretary of State from persons nominated by ACAS as experienced in industrial relations, and shall include some persons whose experience is as representatives of employers and some whose experience is as representatives of workers.
- (3) The Secretary of State may, after consultation with ACAS, appoint one or more deputy chairmen in addition to the existing members of the Committee.
- (4) At any time when the chairman of the Committee is absent or otherwise incapable of acting, or there is a vacancy in the office of chairman, and the Committee has a deputy chairman or deputy chairmen—
 - (a) the deputy chairman, if there is only one, or
 - (b) if there is more than one, such of the deputy chairmen as they may agree or in default of agreement as the Secretary of State may direct,
 may perform any of the functions of chairman of the Committee.
- (5) At any time when every person who is chairman or deputy chairman is absent or otherwise incapable of acting, or there is no such person, such member of the Committee as the Secretary of State may direct may perform any of the functions of the chairman of the Committee.

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- (6) The validity of any proceedings of the Committee shall not be affected by any vacancy among the members of the Committee or by any defect in the appointment of a member of the Committee.

261 Terms of appointment of members of Committee.

- (1) The members of the Central Arbitration Committee shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.
- (2) A person shall not be appointed to the Committee for a term exceeding five years, but previous membership does not affect eligibility for re-appointment.
- (3) The Secretary of State may, with the consent of the member concerned, vary the terms of his appointment as to whether he is a full-time or part-time member.
- (4) A member may at any time resign his membership, and the chairman or a deputy chairman may at any time resign his office as such, by notice in writing to the Secretary of State.
- (5) If the Secretary of State is satisfied that a member—
- (a) has become bankrupt or made an arrangement with his creditors (or, in Scotland, has had his estate sequestrated or has made a trust deed for his creditors or has made and had accepted a composition contract), or
 - (b) is incapacitated by physical or mental illness, or
 - (c) is otherwise unable or unfit to discharge the functions of a member,
- the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as he thinks fit, whereupon the office shall become vacant.
- (6) If the chairman or a deputy chairman ceases to be a member of the Committee, he shall also cease to be chairman or, as the case may be, a deputy chairman.

262 Remuneration, &c. of members of Committee.

- (1) ACAS shall pay to the members of the Central Arbitration Committee such remuneration and travelling and other allowances as may be determined by the Secretary of State.
- (2) The Secretary of State may pay, or make provision for payment, to or in respect of a member of the Committee such pension, allowance or gratuity on death or retirement as he may determine.
- (3) Where a person ceases to be the holder of the Committee otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, he may make him a payment of such amount he may determine.
- (4) The approval of the Treasury is required for any determination by the Secretary of State under this section.

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263 Proceedings of the Committee.

- (1) For the purpose of discharging its functions in any particular case the Central Arbitration Committee shall consist of the chairman and such other members as the chairman may direct:

Provided that, it may sit in two or more divisions constituted of such members as the chairman may direct, and in a division in which the chairman does not sit the functions of the chairman shall be performed by a deputy chairman.

- (2) The Committee may, at the discretion of the chairman, where it appears expedient to do so, call in the aid of one or more assessors, and may settle the matter wholly or partly with their assistance.
- (3) The Committee may at the discretion of the chairman sit in private where it appears expedient to do so.
- (4) If in any case the Committee cannot reach a unanimous decision on its award, the chairman shall decide the matter acting with the full powers of an umpire or, in Scotland, an oversman.
- (5) Subject to the above provisions, the Committee shall determine its own procedure.
- (6) Part I of the ^{M11}Arbitration Act 1950 (general provisions as to arbitration) and section 3 of the ^{M12}Administration of Justice (Scotland) Act 1972 (power of arbiter to state case to Court of Session) do not apply to proceedings before the Committee.

Marginal Citations

M11 1950 c. 27.

M12 1972 c. 59.

VALID FROM 06/06/2000

[^{F9}263A Proceedings of the Committee under Schedule A1.

- (1) For the purpose of discharging its functions under Schedule A1 in any particular case, the Central Arbitration Committee shall consist of a panel established under this section.
- (2) The chairman of the Committee shall establish a panel or panels, and a panel shall consist of these three persons appointed by him—
- (a) the chairman or a deputy chairman of the Committee, who shall be chairman of the panel;
 - (b) a member of the Committee whose experience is as a representative of employers;
 - (c) a member of the Committee whose experience is as a representative of workers.
- (3) The chairman of the Committee shall decide which panel is to deal with a particular case.
- (4) A panel may at the discretion of its chairman sit in private where it appears expedient to do so.

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(5) If—

- (a) a panel cannot reach a unanimous decision on a question arising before it, and
- (b) a majority of the panel have the same opinion, the question shall be decided according to that opinion.

(6) If—

- (a) a panel cannot reach a unanimous decision on a question arising before it, and
- (b) a majority of the panel do not have the same opinion, the chairman of the panel shall decide the question acting with the full powers of an umpire or, in Scotland, an oversman.

(7) Subject to the above provisions, a panel shall determine its own procedure.]

Textual Amendments

F9 S. 263A inserted (6.6.2000) by 1999 c. 26, ss. 25(1)(3); S.I. 2000/1338, art. 2(d)

264 Awards of the Committee.

- (1) The Central Arbitration Committee may correct in any award any clerical mistake or error arising from an accidental slip or omission.
- (2) If a question arises as to the interpretation of an award of the Committee, any party may apply to the Committee for a decision; and the Committee shall decide the question after hearing the parties or, if the parties consent, without a hearing, and shall notify the parties.
- (3) Decisions of the Committee in the exercise of any of its functions shall be published.

265 Annual report and accounts.

- (1) ACAS shall, as soon as practicable after the end of each calendar year, make a report to the Secretary of State on the activities of the Central Arbitration Committee during that year.

For that purpose the Committee shall, as soon as practicable after the end of each calendar year, transmit to ACAS an account of its activities during that year.
- (2) The accounts prepared by ACAS in respect of any financial year shall show separately any sums disbursed to or on behalf of the Committee in consequence of the provisions of this Part.

Status: Point in time view as at 30/08/1993. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Part VI is up to date with all changes known to be in force on or before 24 May 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. (See end of Document for details)

*[^{F10}The Commissioner for the Rights of Trade Union Members and
the Commissioner for Protection Against Unlawful Industrial Action]*

Textual Amendments

F10 S. 266 and cross heading substituted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para.79**; S.I. 1993/1908, art. 2(1), **Sch.1**

[266 ^{F11}**The Commissioners.**

- (1) There—
- (a) shall continue to be an officer called the Commissioner for the Rights of Trade Union Members whose function is to provide assistance in accordance with Chapter VIII of Part I of this Act in connection with certain legal proceedings, and
 - (b) shall be an officer called the Commissioner for Protection Against Unlawful Industrial Action whose function is to provide assistance in accordance with sections 235B and 235C of this Act in connection with proceedings brought by virtue of section 235A.
- (2) Each of the Commissioners shall be appointed by the Secretary of State.
- (3) Each of the Commissioners shall have an official seal for the authentication of documents required for the purposes of his functions.
- (4) Anything authorised or required by or under this Act to be done by either of the Commissioners may be done by a member of his staff authorised by him for that purpose, whether generally or specifically.

An authorisation given for the purposes of this subsection continues to have effect during a vacancy in the office of the Commissioner concerned.

- (5) Neither of the Commissioners nor any member of the staff of either of the Commissioners shall, in that capacity, be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.]

Textual Amendments

F11 S. 266 and cross heading substituted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para.79**; S.I. 1993/1908, art. 2(1), **Sch.1**

267 **Terms of appointment of Commissioner.**

- (1) [^{F12}Each of the Commissioners] shall hold and vacate office in accordance with the terms of his appointment, subject to the following provisions.
- (2) The appointment of a person to hold office as [^{F12}one of the Commissioners] shall be for a term not exceeding five years; but previous appointment to that office does not affect eligibility for re-appointment.
- (3) The Secretary of State may remove a person from [^{F12}office as one of the Commissioners] if he is satisfied—

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- (a) that that person has been adjudged bankrupt, his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors,
- (b) that he is incapacitated by physical or mental illness, or
- (c) that he is otherwise unable or unfit to discharge [^{F12}the functions of the office].

Textual Amendments

F12 Words in s. 267(1)-(3) substituted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 80(a)-(c)**; S.I. 1993/1908, art. 2(1), **Sch. 1**

268 Remuneration, pension, &c.

- (1) There shall be paid to [^{F13}each of the Commissioners] such remuneration, and such travelling and other allowances, as the Secretary of State may determine.
- (2) If the Secretary of State so determines in the case of [^{F13}any person who holds office as one of the Commissioners], there shall be paid such pension, allowance or gratuity to or in respect of him on his retirement or death, or such contributions or payments towards provision for such a pension, allowance or gratuity as may be so determined.
- (3) If, when a person ceases to hold office as [^{F13}one of the Commissioners], the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, there may be paid to him a sum by way of compensation of such amount as may be so determined.
- (4) Payments required to be made under this section shall be made by the Secretary of State
- (5) The consent of the Treasury is required for the making of a determination under this section.

Textual Amendments

F13 Words in s. 268(1)-(3) substituted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 81(a)-(c)**; S.I. 1993/1908, art. 2(1), **Sch. 1**

269 Staff of the Commissioner.

- (1) [^{F14}Each of the Commissioners] may appoint such staff as he may determine, with the approval of the Secretary of State as to numbers and terms and conditions of service.
The consent of the Treasury is required for the giving of an approval under this subsection.
- (2) Employment as a member of the staff of [^{F14}one of the Commissioners] is one of the kinds of employment to which a superannuation scheme under section 1 of the ^{M13}Superannuation Act 1972 may apply.
- (3) Where a person who is a participant in a scheme under section 1 of that Act by reference to his employment by the [^{F14}one of the Commissioners] becomes one of the Commissioners], the Treasury may determine that his service as [^{F14}Commissioner

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shall be treated for the purposes of the scheme as service as an employee]; and his rights under the scheme shall not be affected by the preceding provisions of this Part.

- (4) ^{F14}Neither of the Commissioners is] required to effect insurance under the ^{M14}Employers' Liability (Compulsory Insurance) Act 1969.

Textual Amendments

F14 Words in s. 269(1)-(4) substituted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8**, para. 82(a)-(d); S.I. 1993/1908, art. 2(1), **Sch. 1**

Marginal Citations

M13 1972 c.11.

M14 1969 c. 57.

270 Financial provisions.

- (1) ^{F15}Each of the Commissioners] may, with the approval of the Secretary of State, make such provision as he considers appropriate for the payment by him to those who apply for assistance of sums in respect of travelling and other expenses incurred by them in connection with their applications.
- (2) The Secretary of State shall pay ^{F15}to each of the Commissioners] such sums as he may determine are required ^{F15}by him] for the purpose of carrying out his functions.
- (3) The consent of the Treasury is required for the giving of an approval under subsection (1) or the making of a determination under subsection (2).

Textual Amendments

F15 Words in s. 270(1)(2) substituted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 83(a)(b)**; S.I. 1993/1908, art. 2(1), **Sch.1**

271 Annual report and accounts.

- (1) As soon as reasonably practicable after the end of a financial year ^{F16}each of the Commissioners] shall prepare a report on his activities during that year and shall send a copy of it to the Secretary of State.

The Secretary of State shall lay a copy of the report before each House of Parliament.

- (2) ^{F16}Each of the Commissioners] shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (3) ^{F16}Each of the Commissioners] shall, not later than 30th November following the end of the financial year to which the statement relates, send copies of the statement to the Secretary of State and to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General shall examine, certify and report on each such statement and shall lay a copy of the statement and of his report before each House of Parliament.

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Textual Amendments

F16 Words in s. 271(1)-(3) substituted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 84(a)(b)**; S.I. 1993/1908, art. 2(1), **Sch.1**

Supplementary

272 Meaning of financial year.

In this Part financial year means the twelve months ending with 31st March.

Status:

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Changes to legislation:

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