



# 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*Status: Point in time view as at 13/04/2018.*

*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 04 July 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)*

- <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 [<sup>F11</sup> the 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**
- F11** Words in s. 277(3) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

## 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>F12</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>F13</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>F14</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>F15</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>F16</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

- F12** 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**
- F13** 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**
- F14** 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**
- F15** 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**
- F16** 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.**

<sup>F17</sup>[(1)] 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>F18</sup>performing <sup>F19</sup> . . . personal dental services or] providing <sup>F19</sup> . . . general dental services, general ophthalmic services or pharmaceutical services in accordance with arrangements made—

- (a) by a <sup>F20</sup> . . . [<sup>F21</sup> [<sup>F22</sup>the National Health Service Commissioning Board] [<sup>F23</sup>under section 126 of the National Health Service Act 2006] or] [<sup>F24</sup>a] [<sup>F25</sup>Local Health Board] under section <sup>F26</sup> . . . [<sup>F27</sup>71 or 80 of the National Health Service (Wales) Act 2006] of the <sup>M2</sup>National Health Service Act 1977, or
- (b) by a Health Board under section [<sup>F28</sup>17C,] <sup>F29</sup> . . . 25, 26, or 27 of the <sup>M3</sup>National Health Service (Scotland) Act 1978 [<sup>F30</sup> or as a person providing local pharmaceutical services under a pilot scheme [<sup>F31</sup>established under section 134 of the National Health Service Act 2006 or section 92 of the National Health Service (Wales) Act 2006, or under an LPS scheme established under Schedule 12 to the National Health Service Act 2006 or Schedule 7 to the National Health Service (Wales) Act 2006;]

and employer, in relation to such an individual, regarded in that capacity, means that <sup>F32</sup> . . . board.

[ In this Act “worker” also includes an individual regarded in his capacity as one who <sup>F33</sup>(2) works or normally works or seeks to work as a person performing primary medical services or primary dental services—

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- (a) in accordance with arrangements made by [<sup>F34</sup>the National Health Service Commissioning Board or a] Local Health Board under [<sup>F35</sup>section 92 or 107 of the National Health Service Act 2006, or section 50 or 64 of the National Health Service (Wales) Act 2006]; or
- (b) under a contract under [<sup>F36</sup>section 84 or 100 of the National Health Service Act 2006 or section 42 or 57 of the National Health Service (Wales) Act 2006] entered into by him with [<sup>F37</sup>the National Health Service Commissioning Board or a] Local Health Board,

and “employer” in relation to such an individual, regarded in that capacity, means that <sup>F38</sup>... Board.]

[ In this Act “worker” also includes an individual regarded in his capacity as one who <sup>F39</sup>(3) works or normally works or seeks to work as a person performing primary medical services—

- (a) in accordance with arrangements made by a Health Board under section 17C of the National Health Service (Scotland) Act 1978; or
- (b) under a contract under section 17J of that Act entered into by him with a Health Board,

and “employer” in relation to such an individual, regarded in that capacity, means that Health Board.]]

#### Textual Amendments

- F17** S. 279 renumbered as s. 279(1) (1.4.2004) by virtue of [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 184, 199(1)(a), [Sch. 11 para. 59\(1\)\(3\)](#) (with savings (W.) by S.I. 2004/1016, [art. 88](#)); S.I. 2004/288, [art. 5\(2\)\(v\)](#) (with art. 7(1)(9) (as amended by S.I. 2005/2925, [art. 12](#)) and as amended by S.I. 2004/866, [art. 2](#)); S.I. 2004/480, [art. 4\(z\)](#) (with arts. 6, 7) (as amended by S.I. 2004/1019, [art. 2\(1\)](#) and as amended by S.I. 2006/345, [art. 8\(1\)](#))
- 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. 1 para. 67\(a\)](#); S.I. 1998/631, [art. 2\(1\)](#)
- F19** Words in s. 279(1) omitted (1.4.2004) by virtue of [The Primary Medical Services \(Scotland\) Act 2004 \(Consequential Modifications\) Order 2004 \(S.I. 2004/957\)](#), art. 2, [Sch. para. 7\(a\)\(i\)](#) (with savings for effect (S.) by S.S.I. 2004/163, [art. 99](#))
- F20** Words in s. 279(1)(a) omitted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 154\(1\)\(a\)\(i\)](#) (with Sch. 3 Pt. 1)
- F21** Words in s. 279(1)(a) inserted (1.10.2002 for E.W. and otherwise prosp.) by 2002 c. 17, ss. 2(5), 42(3), [Sch. 2 Pt. 2 para. 60](#); S.I. 2002/2478, [art. 3\(1\)\(d\)](#)
- F22** Words in s. 279(1)(a) substituted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 66\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F23** Words in s. 279(1)(a) inserted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 154\(1\)\(a\)\(ii\)](#) (with Sch. 3 Pt. 1)
- F24** Word in s. 279(1)(a) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 66\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F25** Words in s. 279(1)(a) substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\)](#), arts. 2, 3, [Sch. para. 22](#)
- F26** Words in S. 279(1)(a) repealed (1.4.2004) by virtue of [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 184, 199(1)(a), [Sch. 11 para. 59\(1\)\(2\)](#), [Sch. 14 Pt. 4](#) (with savings (W.) by S.I. 2004/1016, [art. 88](#)); S.I. 2004/288, arts. 5(2)(v), [6\(2\)\(k\)](#) (with art. 7(1)(9) (as amended by S.I. 2005/2925, [art. 12](#)) and as amended by S.I. 2004/866, [art. 2](#)); S.I. 2004/480, arts. 4(z), [5\(2\)\(k\)](#) (with arts. 6, 7) (as amended by S.I. 2004/1019, [art. 2\(1\)](#) and as amended by S.I. 2006/345, [art. 8\(1\)](#))
- F27** Words in s. 279(1)(a) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 154\(1\)\(a\)\(iii\)](#) (with Sch. 3 Pt. 1)

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- F28** 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. 1 para. 67(c)**; S.I. 1998/631, **art. 2(1)**
- F29** Word in s. 279(1)(b) omitted (1.4.2004) by virtue of The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 2, **Sch. para. 7(a)(i)** (with savings for effect (S.) by S.S.I. 2004/163, **art. 99**)
- F30** Words in s. 279 inserted (1.7.2002 for W. and 1.1.2003 for E.) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 Pt. 1 para. 9** (with ss. 64(9), 65(4)); S.I. 2002/1475, art. 2, **Sch. Pt. 1**; S.I. 2003/53, **art. 2(a)**
- F31** Words in s. 279(1)(b) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 154(1)(b)** (with Sch. 3 Pt. 1)
- F32** Words in s. 279(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 66(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F33** S. 279(2) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 184, 199(1)(a), **Sch. 11 para. 59(1)(4)** (with savings by S.I. 2004/1016, **art. 88**); S.I. 2004/288, **art. 5(2)(v)** (with art. 7(1)(9) (as amended by S.I. 2005/2925, **art. 12**) and as amended by S.I. 2004/866, **art. 2**); S.I. 2004/480, **art. 4(z)** (with arts. 6, 7) (as amended by S.I. 2004/1019, **art. 2(1)**) and as amended by S.I. 2006/345, **art. 8(1)**
- F34** Words in s. 279(2)(a) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 66(d)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F35** Words in s. 279(2)(a) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 155(a)** (with Sch. 3 Pt. 1)
- F36** Words in s. 279(2)(b) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 155(b)** (with Sch. 3 Pt. 1)
- F37** Words in s. 279(2)(b) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 66(e)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F38** Words in s. 279(2) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 66(g)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F39** S. 279(3) inserted (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 2, **Sch. para. 7(b)** (with savings for effect (S.) by S.S.I. 2004/163, **art. 99**)

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

- C1** S. 279(2) modified (E.) (1.4.2004) by The General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 (S.I. 2004/865), arts. 1(2), **109(2)(d)**
- C2** S. 279(2) modified (W.) (1.4.2004) by The General Medical Services Transitional and Consequential Provisions (Wales) (No. 2) Order 2004 (S.I. 2004/1016), arts 1(2), **85(2)(d)**
- C3** S. 279(3)(b) modified (1.4.2004) by The General Medical Services and Section 17C Agreements (Transitional and other Ancillary Provisions) (Scotland) Order 2004 (S.S.I. 2004/163), **art. 96**

#### 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.

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(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)**

- C4 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)
- C5 S. 280 modified (7.4.2010) by The UK Border Agency (Complaints and Misconduct) Regulations 2010 (S.I. 2010/782), regs. 1(1), 42(4)(a) (with reg. 72(3))

*Excluded classes of employment*

<sup>F40</sup>281 .....

**Textual Amendments**

- F40 S. 281 repealed (6.2.1995) by S.I. 1995/31, regs. 5, 6, Sch.

[<sup>F41</sup>282 **Fixed term employment**

- (1) In this section, “fixed term contract” means a contract of employment that, under its provisions determining how it will terminate in the normal course, will terminate—
  - (a) on the expiry of a specific term,
  - (b) on the completion of a particular task, or
  - (c) on the occurrence or non-occurrence of any other specific event other than the attainment by the employee of any normal and bona fide retiring age in the establishment for an employee holding the position held by him.
- (2) The provisions of Chapter II of Part IV (procedure for handling redundancies) do not apply to employment under a fixed term contract unless—
  - (a) the employer is proposing to dismiss the employee as redundant; and
  - (b) the dismissal will take effect before the expiry of the specific term, the completion of the particular task or the occurrence or non-occurrence of the specific event (as the case may be).]

**Textual Amendments**

- F41 S. 282 substituted (with application in accordance with art. 2 of the amending S.I.) by The Trade Union and Labour Relations (Consolidation) Act 1992 (Amendment) Order 2013 (S.I. 2013/763), arts. 1, 3(4)

<sup>F42</sup>283 .....



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#### Textual Amendments

**F42** 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 [<sup>F43</sup>(or, in the case of sections 145A to 151, the worker)] 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),

[<sup>F44</sup>sections 145A to 151 (inducements and detriment)], and

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

<sup>F45</sup> ...

#### Textual Amendments

**F43** Words in s. 284 inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 16(1)**; S.I. 2004/2566, art. 3(b) (with arts. 4-8)

**F44** Words in s. 284 substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 16(2)**; S.I. 2004/2566, art. 3(b) (with arts. 4-8)

**F45** Words in s. 284 omitted (13.4.2018) by virtue of The Seafarers (Insolvency, Collective Redundancies and Information and Consultation Miscellaneous Amendments) Regulations 2018 (S.I. 2018/407), regs. 1(1), 3(2) (with reg. 3(3))

### 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),

[<sup>F46</sup>sections 145A to 151 (inducements and detriment)], and

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

In Part IV, [<sup>F47</sup>sections [<sup>F48</sup>193 to 194] (duty to notify Secretary of State of certain redundancies)].

[<sup>F49</sup>(1A) Sections 145A to 151 do not apply to employment where under his contract personally to do work or perform services a worker who is not an employee works outside Great Britain.]

*Status: Point in time view as at 13/04/2018.*

*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 04 July 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)*

- [<sup>F50</sup>(1B) For the purposes of subsection (1) as it relates to sections 193 to 194, 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.]
- (2) For the [<sup>F51</sup>other purposes of subsection (1) and the purposes of subsection (1A)] 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, [<sup>F52</sup>the worker or] 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

- F46** Words in s. 285(1) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 17\(2\)](#); S.I. 2004/2566, [art. 3\(b\)](#) (with arts. 4-8)
- F47** 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](#))
- F48** Words in s. 285(1) substituted (6.2.2018) by [The Seafarers \(Transnational Information and Consultation, Collective Redundancies and Insolvency Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/26\)](#), regs. 1(1), [3\(3\)\(a\)](#) (with [reg. 3\(4\)](#))
- F49** S. 285(1A) inserted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 17\(3\)](#); S.I. 2004/2566, [art. 3\(b\)](#) (with arts. 4-8)
- F50** S. 285(1B) inserted (6.2.2018) by [The Seafarers \(Transnational Information and Consultation, Collective Redundancies and Insolvency Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/26\)](#), regs. 1(1), [3\(3\)\(b\)](#) (with [reg. 3\(4\)](#))
- F51** Words in s. 285(2) substituted (6.2.2018) by [The Seafarers \(Transnational Information and Consultation, Collective Redundancies and Insolvency Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/26\)](#), regs. 1(1), [3\(3\)\(c\)](#) (with [reg. 3\(4\)](#))
- F52** Words in s. 285(2)(c) inserted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 17\(4\)\(b\)](#); S.I. 2004/2566, [art. 3\(b\)](#) (with arts. 4-8)

## 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), [<sup>F53</sup>sections 145A to 151 (inducements and detriment)],
- 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

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- (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.

#### Textual Amendments

**F53** Words in s. 286(1) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 18](#); S.I. 2004/2566, [art. 3\(b\)](#) (with arts. 4-8)

### *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;
  - (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>F54</sup>employment tribunals], in respect of

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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>F55</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

**F54** 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

**F55** 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. 1 (with Sch. 3 para. 7)

#### Marginal Citations

**M4** 1878 c. 73.

**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

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- (b) to preclude a person from bringing—
  - (i) proceedings before an [<sup>F56</sup>employment tribunal] or the Central Arbitration Committee under any provision of this Act, <sup>F57</sup> . . .
  - (ii) <sup>F57</sup> . . . . .
- (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>F58</sup>[<sup>F59</sup> any of sections 18A to 18C ] of the [<sup>F56</sup>Employment Tribunals Act 1996] (conciliation)]
- <sup>F60</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>F61</sup>subsection (1)(b) of that section]] before an [<sup>F56</sup>employment tribunal] if the conditions regulating [<sup>F62</sup>settlement ] agreements under this Act are satisfied in relation to the agreement.
- (2B) The conditions regulating [<sup>F62</sup> settlement ] agreements under this Act are that—
  - (a) the agreement must be in writing;
  - (b) the agreement must relate to the particular [<sup>F63</sup>proceedings];
  - (c) the complainant must have received [<sup>F64</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>F56</sup>employment tribunal];
  - (d) there must be in force, when the adviser gives the advice, a [<sup>F65</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 [<sup>F62</sup> settlement ] 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>F66</sup>(4) A person is a relevant independent adviser for the purposes of subsection (2B)(c)—
  - (a) if he is a qualified lawyer,
  - (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—

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- (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, [<sup>F67</sup>a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act), 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>F68</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.]

#### Textual Amendments

- F56** 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
- F57** S. 288(1)(b)(ii) and preceding word repealed (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1)(2), 59(2)-(4), Sch. 1 para. 19, Sch. 2; S.I. 2005/872, art. 4, Sch. (with arts. 6-21)
- F58** 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)
- F59** Words in s. 288(2) substituted (6.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 1 para. 1; S.I. 2014/253, art. 3(f) (with art. 5(1))
- F60** 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
- F61** Words in s. 288(2A) substituted (22.8.1996) by 1996 c. 18, ss. 43, 46, Sch. 1 para. 8(b) (with s. 38)
- F62** Word in s. 288(2A)(2B) substituted (29.7.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 23(1)(a), 103(3); S.I. 2013/1648, art. 2(c)

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- F63** 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**
- F64** 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**
- F65** 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**
- F66** 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. 1**
- F67** Words in s. 288(4B)(a) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211(2), **Sch. 21 para. 107** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F68** 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))

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

- C6** S. 288 applied (2.3.2010) by The Employment Relations Act 1999 (Blacklists) Regulations 2010 (S.I. 2010/493), regs. 1(b), **16**

**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>F69</sup>Employment tribunal] proceedings*

**Textual Amendments**

- F69** 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>F70</sup>290** .....

**Textual Amendments**

- F70** S. 290 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

**291**<sup>F71</sup>(1) .....

<sup>F72</sup>(2) .....

<sup>F72</sup>(3) .....

**Textual Amendments**

- F71** 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**
- F72** S. 291(2)(3) repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

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### 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) <sup>F73</sup> . . . . .
  - (b) sections 168 to 173 (time off for trade union duties and activities);
  - (c) sections 188 to 198 (procedure for handling redundancies).

<sup>F74</sup>(1A) This section also has effect in relation to sections 145A to 151 so far as those sections confer rights on workers or make provision in connection therewith.]

- (2) Where the employee [<sup>F75</sup>or worker] or employer dies, tribunal proceedings may be instituted or continued by a personal representative of the deceased employee [<sup>F75</sup>or worker] 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 [<sup>F75</sup>or worker], 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>F76</sup>employment tribunal] may appoint, being either—
- (a) a person authorised by the employee [<sup>F75</sup>or worker] to act in connection with the proceedings before his death, or
  - (b) the widower, widow, [<sup>F77</sup>surviving civil partner,] child, father, mother, brother or sister of the employee [<sup>F75</sup>or worker].

In such a case any award made by the [<sup>F76</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) [<sup>F78</sup>or (1A)] which by virtue of this section accrues after the death of the employee [<sup>F75</sup>or worker] 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

- F73** S. 292(1)(a) repealed (1.10.2004) by Employment Relations Act 2004, ss. 57(1)(2), 59(2)-(4), Sch. 1 para. 20(2), {Sch. 2}; S.I. 2004/2566, **art. 3(b)(c)** (with arts. 4-8)
- F74** S. 292(1A) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 20(3)**; S.I. 2004/2566, **art. 3(b)** (with arts. 4-8)
- F75** Words in s. 292(2)-(4) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 20(4)**; S.I. 2004/2566, **art. 3(b)** (with arts. 4-8)
- F76** 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**
- F77** Words in s. 292(3)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263(10) (b), **Sch. 27** {para. 146}; S.I. 2005/3175, **art. 2(2)**
- F78** Words in s. 292(4) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 20(5)**; S.I. 2004/2566, **art. 3(b)** (with arts. 4-8)



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## [<sup>F79</sup>292A Extension of time limits to facilitate conciliation before institution of proceedings

- (1) This section applies where this Act provides for it to apply for the purposes of a provision of this Act (a “relevant provision”).
- (2) In this section—
  - (a) Day A is the day on which the complainant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
  - (b) Day B is the day on which the complainant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.
- (3) In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.
- (4) If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.
- (5) Where an employment tribunal has power under this Act to extend a time limit set by a relevant provision, the power is exercisable in relation to the time limit as extended by this section.]

### Textual Amendments

- F79** S. 292A inserted (6.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 2 para. 13](#); S.I. 2014/253, art. 3(g)

## 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.
- (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>M6</sup>Employment Protection Act 1975 or the <sup>M7</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.

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- (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**

**M6** 1975 c. 71.

**M7** 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,  
 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>F80</sup>[(3) This section has effect subject to <sup>F81</sup>sections 68(4), <sup>F82</sup>116B(10), 145F(3) and 151(1B)].]

#### Textual Amendments

- F80** 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**
- F81** 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)
- F82** Word in s. 296(3) inserted (1.3.2017 for specified purposes) by **Trade Union Act 2016 (c. 15)**, **ss. 15(2), 25(1)**; S.I. 2017/139, reg. 2(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.

### <sup>F83</sup>297A Meaning of “voting”

For the purposes of this Act, the number of persons voting in a ballot includes those who return ballot papers that are spoiled or otherwise invalid.]

#### Textual Amendments

- F83** S. 297A inserted (1.3.2017) by **Trade Union Act 2016 (c. 15)**, s. 25(1), **Sch. 4 para. 17**; S.I. 2017/139, reg. 2(n)(ii)

### <sup>F84</sup>297B Devolved Welsh authorities

For the purposes of this Act a “devolved Welsh authority” has the same meaning as in section 157A of the Government of Wales Act 2006 (c.32).]

#### Textual Amendments

- F84** S. 297B inserted (E.W.) (13.9.2017) by **Trade Union (Wales) Act 2017 (anaw 4)**, **ss. 1(5), 3**; S.I. 2017/903, art. 2

## 298 Minor definitions: general.

In this Act, unless the context otherwise requires—

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

[<sup>F85</sup>“agency worker” has the meaning given in regulation 3 of the Agency Workers Regulations 2010;]

[<sup>F86</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>F87</sup>Part X of the Employment Rights Act 1996];

[<sup>F88</sup>“legal professional privilege”, as respects Scotland, means confidentiality of communications;]

<sup>F89</sup>  
...

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

#### Textual Amendments

- F85** 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](#)
- F86** 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)
- F87** 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)
- F88** Words in s. 298 inserted (1.3.2017) by [Trade Union Act 2016 \(c. 15\)](#), s. 25(1), [Sch. 4 para. 18](#); [S.I. 2017/139](#), reg. 2(n)(ii)
- F89** 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>F90</sup> affected employees (in Part IV, Chapter II)]                    | [ <sup>F90</sup> section 196(3)]  |
| [ <sup>F91</sup> “affected transferring individual” (in sections 198A and 198B)] | [ <sup>F91</sup> section 198A(7)] |
| [ <sup>F92</sup> agency worker]  | [ <sup>F92</sup> section 298]     |
| [ <sup>F93</sup> agent (of trade union)]   | [ <sup>F93</sup> section 119]     |
| appropriately qualified actuary (in sections 38 to 41)                           | section 42                        |

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|  |                                   |
|--|-----------------------------------|
| associated employer  | section 297                       |
| branch or section (of trade union)   | section 119                       |
| [ <sup>F94</sup> certificate of independence   | section 298.]                     |
| collective agreement and collective bargaining   | section 178(1)                    |
| <sup>F95</sup>   | <sup>F95</sup>                    |
| . . .  | . . .                             |
| 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                       |
| [ <sup>F96</sup> contributor (in relation to the political fund of a trade union)]                                     | [ <sup>F96</sup> section 84(5)]   |
| the court (in Part I)  | section 121                       |
| date of the ballot (in Part V)   | section 246                       |
| [ <sup>F97</sup> devolved Welsh authority]   | [ <sup>F97</sup> section 297B]    |
| 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>F93</sup> the duty of confidentiality][ <sup>F98</sup> , in the context of a scrutineer or independent person ] | [ <sup>F93</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>F99</sup> employee representatives (in Part IV, Chapter II)]  | [ <sup>F99</sup> section 196(1).] |
| employer   |                                   |
| —in relation to an employee  | section 295(1)                    |
| —in relation to a worker   | section 296(2)                    |

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|  |                                    |
|--|------------------------------------|
| —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>F93</sup> financial affairs (of trade union)]                       | [ <sup>F93</sup> section 119]      |
| financial year (in Part VI)  | section 272                        |
| general secretary  | section 119                        |
| independent trade union (and related expressions)                          | section 5                          |
| [ <sup>F96</sup> legal professional privilege (as respects Scotland)]      | [ <sup>F96</sup> section 298]      |
| 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                        |
| <b>F100</b>  | <b>F100</b>                        |
| .....  | .....                              |
| political fund   | section 82(1)(a)                   |
| political resolution   | section 82(1)(a)                   |
| <b>F101</b>  | <b>F101</b>                        |
| ...  | ...                                |
| prescribed   | section 293(1)                     |
| president  | section 119                        |
| [ <sup>F102</sup> “pre-transfer consultation” (in sections 198A and 198B)] | [ <sup>F102</sup> section 198A(7)] |
| recognised, recognition and related expressions                            | section 178(3)                     |
| [ <sup>F103</sup> “relevant transfer” (in sections 198A and 198B)]         | [ <sup>F103</sup> section 198A(7)] |
| <b>F95</b>   |                                    |
| ...  |                                    |
| <b>F95</b>   | <b>F95</b>                         |

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|  |                                    |
|--|------------------------------------|
| ...  | ...                                |
| F95  | F95                                |
| ...  | ...                                |
| [ <sup>F104</sup> representatives of a trade union (in Part IV, Chapter II)] | [ <sup>F104</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                          |
| [ <sup>F105</sup> “transferee” and “transferor” (in sections 198A and 198B)] | [ <sup>F105</sup> section 198A(7)] |
| [ <sup>F105</sup> “transferring individual” (in sections 198A and 198B)]     | [ <sup>F105</sup> section 198A(7)] |
| 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)          |
| [ <sup>F96</sup> voting]   | [ <sup>F96</sup> section 297A]     |
| 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

- F90** Entry in s. 299 relating to affecting employees inserted (28.7.1999) by S.I. 1999/1925, **reg. 7**
- F91** Words in s. 299 inserted (31.1.2014) by [The Collective Redundancies and Transfer of Undertakings \(Protection of Employment\) \(Amendment\) Regulations 2014](#) (S.I. 2014/16), regs. 1(2), **3(2)(a)**
- F92** 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**
- F93** 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**
- F94** 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)
- F95** 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**
- F96** Words in s. 299 inserted (1.3.2017) by [Trade Union Act 2016](#) (c. 15), s. 25(1), **Sch. 4 para. 19**; S.I. 2017/139, reg. 2(n)(ii)
- F97** Words in s. 299 added (E.W.) (13.9.2017) by [Trade Union \(Wales\) Act 2017](#) (anaw 4), **ss. 1(6)**, 3; S.I. 2017/903, art. 2

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- F98** Words in s. 299 inserted (30.1.2014 for specified purposes, 6.4.2015 in so far as not already in force and with application in accordance with art. 3 of the commencing S.I.) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\)](#), **ss. 41(5)**, 45(3)(c); S.I. 2015/717, art. 3(1)(b)
- F99** Entry in s. 299 inserted (26.10.1995) by S.I. 1995/2587, **reg. 7(2)**
- F100** 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)
- F101** Entry in s. 299 relating to post repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2**
- F102** Words in s. 299 inserted (31.1.2014) by [The Collective Redundancies and Transfer of Undertakings \(Protection of Employment\) \(Amendment\) Regulations 2014 \(S.I. 2014/16\)](#), regs. 1(2), **3(2)(b)**
- F103** Words in s. 299 inserted (31.1.2014) by [The Collective Redundancies and Transfer of Undertakings \(Protection of Employment\) \(Amendment\) Regulations 2014 \(S.I. 2014/16\)](#), regs. 1(2), **3(2)(c)**
- F104** Entry in s. 299 substituted (26.10.1995) by S.I. 1995/2587, **reg. 7(3)**
- F105** Words in s. 299 inserted (31.1.2014) by [The Collective Redundancies and Transfer of Undertakings \(Protection of Employment\) \(Amendment\) Regulations 2014 \(S.I. 2014/16\)](#), regs. 1(2), **3(2)(d)**

### *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>F106</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>M8</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>F107</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



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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

**F106** 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**

**F107** 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

**M8** 1875 c. 86.

### 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.

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**Changes to legislation:**

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