

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 3.

POLITICAL FUND BALLOTS

Extent Information

E1 Sch. 1 extends to Northern Ireland for limited purposes, see s. 54(3)(a).

Modifications etc. (not altering text)

C1 Sch. 1 restricted (27.7.1993) by S.I. 1993/1908, art. 3(2).

- 1 In section 74(3) of the 1992 Act (requirements which Certification Officer must be satisfied would be met in relation to political fund ballot held by trade union in accordance with its rules), after the entry relating to section 77 there shall be inserted— “ section 77A (counting of votes etc. by independent person), and ”.
- 2 In section 75 of that Act (appointment of independent scrutineer for political fund ballot)—
 - (a) in paragraph (a) (scrutineer to supervise certain matters) of subsection (3) (terms of appointment of scrutineer), for the words and distribution of the voting papers there shall be substituted the words “ of the voting papers and (unless he is appointed under section 77A to undertake the distribution of the voting papers) their distribution ”,
 - (b) after that paragraph there shall be inserted—
 - “(aa) to—
 - (i) inspect the register of names and addresses of the members of the trade union, or
 - (ii) examine the copy of the register as at the relevant date which is supplied to him in accordance with subsection (5A)(a),whenever it appears to him appropriate to do so and, in particular, when the conditions specified in subsection (3A) are satisfied;”,
 - (c) in paragraph (d) (scrutineer to retain custody of voting papers) of that subsection—
 - (i) after the words purposes of the ballot there shall be inserted the words “ and the copy of the register supplied to him in accordance with subsection (5A)(a) ”, and
 - (ii) after the words of the papers there shall be inserted the words “ or copy ”,
 - (d) after that subsection there shall be inserted—
 - “(3A) The conditions referred to in subsection (3)(aa) are—

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- (a) that a request that the scrutineer inspect the register or examine the copy is made to him during the appropriate period by a member of the trade union who suspects that the register is not, or at the relevant date was not, accurate and up-to-date, and
 - (b) that the scrutineer does not consider that the member's suspicion is ill-founded.
- (3B) In subsection (3A) "the appropriate period" means the period—
- (a) beginning with the day on which the scrutineer is appointed, and
 - (b) ending with the day before the day on which the scrutineer makes his report to the trade union.
- (3C) The duty of confidentiality as respects the register is incorporated in the scrutineer's appointment.",
- (e) after subsection (5) there shall be inserted—
- “(5A) The trade union shall—
- (a) supply to the scrutineer as soon as is reasonably practicable after the relevant date a copy of the register of names and addresses of its members as at that date, and
 - (b) comply with any request made by the scrutineer to inspect the register.
- (5B) Where the register is kept by means of a computer the duty imposed on the trade union by subsection (5A)(a) is either to supply a legible printed copy or (if the scrutineer prefers) to supply a copy of the computer data and allow the scrutineer use of the computer to read it at any time during the period when he is required to retain custody of the copy.”, and
- (f) after subsection (7) there shall be inserted—
- “(8) In this section “the relevant date” means—
- (a) where the trade union has rules determining who is entitled to vote in the ballot by reference to membership on a particular date, that date, and
 - (b) otherwise, the date, or the last date, on which voting papers are distributed for the purposes of the ballot.”.

3

After section 77 of that Act there shall be inserted—

“77A Counting of votes etc. by independent person.

- (1) The trade union shall ensure that—
 - (a) the storage and distribution of the voting papers for the purposes of the ballot, and
 - (b) the counting of the votes cast in the ballot,
 are undertaken by one or more independent persons appointed by the union.
- (2) A person is an independent person in relation to a ballot if—
 - (a) he is the scrutineer, or

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- (b) he is a person other than the scrutineer and the trade union has no grounds for believing either that he will carry out any functions conferred on him in relation to the ballot otherwise than competently or that his independence in relation to the union, or in relation to the ballot, might reasonably be called into question.
 - (3) An appointment under this section shall require the person appointed to carry out his functions so as to minimise the risk of any contravention of requirements imposed by or under any enactment or the occurrence of any unfairness or malpractice.
 - (4) The duty of confidentiality as respects the register is incorporated in an appointment under this section.
 - (5) Where the person appointed to undertake the counting of votes is not the scrutineer, his appointment shall require him to send the voting papers back to the scrutineer as soon as reasonably practicable after the counting has been completed.
 - (6) The trade union—
 - (a) shall ensure that nothing in the terms of an appointment under this section is such as to make it reasonable for any person to call into question the independence of the person appointed in relation to the union,
 - (b) shall ensure that a person appointed under this section duly carries out his functions and that there is no interference with his carrying out of those functions which would make it reasonable for any person to call into question the independence of the person appointed in relation to the union, and
 - (c) shall comply with all reasonable requests made by a person appointed under this section for the purposes of, or in connection with, the carrying out of his functions.”
- 4 In section 78 of that Act (scrutineer’s report on ballot)—
- (a) in subsection (1), after paragraph (d) there shall be inserted “and
 - (e) the name of the person (or of each of the persons) appointed under section 77A or, if no person was so appointed, that fact.”,
 - (b) in subsection (2)(b), after the word made there shall be inserted “ (whether by him or any other person) ”, and
 - (c) after that subsection there shall be inserted—
 - “(2A) The report shall also state—
 - (a) whether the scrutineer—
 - (i) has inspected the register of names and addresses of the members of the trade union, or
 - (ii) has examined the copy of the register as at the relevant date which is supplied to him in accordance with section 75(5A)(a),
 - (b) if he has, whether in the case of each inspection or examination he was acting on a request by a member of the trade union or at his own instance,
 - (c) whether he declined to act on any such request, and

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- (d) whether any inspection of the register, or any examination of the copy of the register, has revealed any matter which he considers should be drawn to the attention of the trade union in order to assist it in securing that the register is accurate and up-to-date,

but shall not state the name of any member who has requested such an inspection or examination.

(2B) Where one or more persons other than the scrutineer are appointed under section 77A, the statement included in the scrutineer’s report in accordance with subsection (2)(b) shall also indicate—

- (a) whether he is satisfied with the performance of the person, or each of the persons, so appointed, and
- (b) if he is not satisfied with the performance of the person, or any of them, particulars of his reasons for not being so satisfied.”

^{F1}SCHEDULE 2

Textual Amendments

F1 Schs. 2-5 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F2}SCHEDULE 3

Textual Amendments

F2 Schs. 2-5 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F3}SCHEDULE 4

Section 26.

Textual Amendments

F3 Schs. 2-5 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F4}SCHEDULE 5

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Textual Amendments

F4 Schs. 2-5 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

SCHEDULE 6

Section 39(2).

COMPROMISE CONTRACTS

Sex Discrimination Act 1975 (c.65)

- 1 In section 77 of the Sex Discrimination Act 1975 (validity, etc. of contracts)—
- (a) in subsection (4), after paragraph (a), there shall be inserted—
 - “(aa) to a contract settling a complaint to which section 63(1) of this Act or section 2 of the ^{M1}Equal Pay Act 1970 applies if the conditions regulating compromise contracts under this Act are satisfied in relation to the contract;”;
 - (b) after subsection (4) there shall be inserted—
 - “(4A) The conditions regulating compromise contracts under this Act are that—
 - (a) the contract must be in writing;
 - (b) the contract must relate to the particular complaint;
 - (c) the complainant must have received independent legal advice from a qualified lawyer as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an [^{F5}employment tribunal];
 - (d) there must be in force, when the adviser gives the advice, a policy of insurance covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
 - (e) the contract must identify the adviser; and
 - (f) the contract must state that the conditions regulating compromise contracts under this Act are satisfied.
 - (4B) In subsection (4A)—
 - “independent”, in relation to legal advice to the complainant, means that it is given by a lawyer who is not acting for the other party or for a person who is connected with that other party; and
 - “qualified lawyer” means—
 - (a) as respects proceedings in England and Wales—
 - (i) a barrister, whether in practice as such or employed to give legal advice, or
 - (ii) a solicitor of the Supreme Court who holds a practising certificate;
 - (b) as respects proceedings in Scotland—

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(i) an advocate, whether in practice as such or employed to give legal advice, or

(ii) a solicitor who holds a practising certificate.

(4C) For the purposes of subsection (4B) any two persons are to be treated as “connected” if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control.”.

Textual Amendments

F5 Words in *Sch. 6 para. 1* 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*

Marginal Citations

M1 1970 c. 41.

Race Relations Act 1976 (c. 74)

2 In section 72 of the Race Relations Act 1976 (validity, etc. of contracts)—

(a) in subsection (4), after paragraph (a) there shall be inserted—

“(aa) to a contract settling a complaint to which section 54(1) applies if the conditions regulating compromise contracts under this Act are satisfied in relation to the contract;”;

(b) after subsection (4) there shall be inserted—

“(4A) The conditions regulating compromise contracts under this Act are that—

- (a) the contract must be in writing;
- (b) the contract must relate to the particular complaint;
- (c) the complainant must have received independent legal advice from a qualified lawyer as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an [F6 employment tribunal];
- (d) there must be in force, when the adviser gives the advice, a policy of insurance covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
- (e) the contract must identify the adviser; and
- (f) the contract must state that the conditions regulating compromise contracts under this Act are satisfied.

(4B) In subsection (4A)—

“independent”, in relation to legal advice to the complainant, means that it is given by a lawyer who is not acting for the other party or for a person who is connected with that other party; and

“qualified lawyer” means—

- (a) as respects proceedings in England and Wales—

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- (i) a barrister, whether in practice as such or employed to give legal advice, or
 - (ii) a solicitor of the Supreme Court who holds a practising certificate.
- (b) as respects proceedings in Scotland—
- (i) an advocate, whether in practice as such or employed to give legal advice, or
 - (ii) a solicitor who holds a practising certificate.

(4C) For the purposes of subsection (4B) any two persons are to be treated as “connected” if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control.”.

Textual Amendments

F6 Words in Sch. 6 para. 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

Wages Act 1986 (c.48)

^{F73}

Textual Amendments

F7 Sch. 6 para. 3 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

4 In section 288 of the 1992 Act (restrictions on contracting out)—

(a) after subsection (2) there shall be inserted—

“(2A) Subsection (1) does not apply to an agreement to refrain from instituting or continuing any proceedings, other than excepted proceedings, specified in section 290 before an [^{F8}employment tribunal] if the conditions regulating compromise agreements under this Act are satisfied in relation to the agreement.

(2B) The conditions regulating compromise agreements under this Act are that—

- (a) the agreement must be in writing;
- (b) the agreement must relate to the particular complaint;
- (c) the complainant must have received independent legal advice from a qualified lawyer as to the terms and effect of the proposed agreement and in particular its effect on his ability to pursue his rights before an [^{F8}employment tribunal];
- (d) there must be in force, when the adviser gives the advice, a policy of insurance covering the risk of a claim by the

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- complainant in respect of loss arising in consequence of the advice;
- (e) the agreement must identify the adviser; and
- (f) the agreement must state that the conditions regulating compromise agreements under this Act are satisfied.

(2C) The proceedings excepted from subsection (2A) are proceedings on a complaint of non-compliance with section 188.”;

F9

F9(b)

Textual Amendments

F8 Words in Sch. 6 para. 4 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

F9 Sch. 6 para. 4(b) and the word preceding it repealed (1.8.1998) by 1998 c. 8, s. 15, Sch. 2 (with s. 38); S.I. 1998/1658, art. 2(1), Sch. 1

SCHEDULE 7

Section 49(1).

MISCELLANEOUS AMENDMENTS

Unfair selection for dismissal in redundancy cases: exclusion of qualifying conditions

- 1 In section 154 of the 1992 Act (exclusion of requirement for qualifying period of employment, etc where reason for dismissal related to trade union membership or activities)—
- (a) for the words was one of those specified in section 152(1) there shall be substituted the words “ or, in a redundancy case, for selecting the employee for dismissal, was an inadmissible reason. ”, and
 - (b) there shall be inserted after those words, as subsection (2), the following—
 - “(2) For the purposes of this section—
 - “inadmissible”, in relation to a reason, means that it is one of those specified in section 152(1); and
 - “a redundancy case” means a case where the reason or principal reason for the dismissal was that the employee was redundant but the equal application of the circumstances to non-dismissed employees required by section 153(a) is also shown.”, and the words preceding that subsection (2) shall become subsection (1).

Qualifying period for unfair dismissal protection: small businesses

F102

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Textual Amendments

F10 Sch. 7 paras. 2-5 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

Application of 1978 Act to Crown Employment and House of Commons Staff

F13

Textual Amendments

F11 Sch. 7 paras. 2-5 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

F124

Textual Amendments

F12 Sch. 7 paras. 2-5 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

Restrictions on disclosure of information, etc on grounds of national security

F135

Textual Amendments

F13 Sch. 7 paras. 2-5 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

F146

Textual Amendments

F14 Sch. 7 para. 6 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, Sch. 3 Pt. I (with s. 38)

F157

Textual Amendments

F15 Sch. 7 para. 7 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, Sch. 3 Pt. I (with s. 38)

Extension of employment protection provisions and related legislation to House of Lords Staff

8 In section 1 of the ^{M2}Equal Pay Act 1970 (requirement of equal treatment for men and women), after subsection (10A) there shall be inserted—

“(10B) This section applies in relation to employment as a relevant member of the House of Lords staff as in relation to other employment.

In this subsection “relevant member of the House of Lords staff” has the same meaning as in section 139A of the ^{M3}Employment Protection

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(Consolidation) Act 1978; and subsection (6) of that section applies for the purposes of this section.”.

Marginal Citations

- M2 1970 c. 41.
- M3 1978 c. 44.

9 After section 85A of the ^{M4}Sex Discrimination Act 1975 (application to House of Commons staff) there shall be inserted—

“85B Application to House of Lords staff.

- (1) Parts II and IV apply in relation to employment as a relevant member of the House of Lords staff as they apply in relation to other employment.
- (2) In this section “relevant member of the House of Lords staff” has the same meaning as in section 139A of the ^{M5}Employment Protection (Consolidation) Act 1978; and subsection (6) of that section applies for the purposes of this section.”.

Marginal Citations

- M4 1975 c. 65.
- M5 1978 c. 44.

10 After section 75A of the ^{M6}Race Relations Act 1976 (application to House of Commons staff) there shall be inserted—

“75B Application to House of Lords staff.

- (1) Parts II and IV apply in relation to employment as a relevant member of the House of Lords staff as they apply in relation to other employment.
- (2) In this section “relevant member of the House of Lords staff” has the same meaning as in section 139A of the Employment Protection (Consolidation) Act 1978; and subsection (6) of that section applies for the purposes of this section.”.

Marginal Citations

- M6 1976 c. 74.

F16¹¹

Textual Amendments

- F16 Sch. 7 para. 11 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

12 In section 277 of the 1992 Act (House of Lords staff)—

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- (a) in subsection (1), for the words Sections 137 to 143 (rights in relation to trade union membership: access to employment) there shall be substituted the words “ The provisions of this Act (except those specified below) ”,
- (b) after that subsection there shall be inserted—

“(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).”

- (c) in subsection (2), after the word bringing there shall be inserted the words “ a civil employment claim before the court or from bringing ”,
- (d) after that subsection there shall be inserted—

“(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.”, and
- (e) for subsections (3) to (6) there shall be substituted—

“(3) In this section—

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

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

“the court” means the High Court or a county court.”

Power to extend 1978 Act in certain health and safety cases

^{F17}13

Textual Amendments

F17 Sch. 7 para. 13 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

Power to provide for continuity of employment following reinstatement or re-engagement

^{F18}14

Textual Amendments

F18 Sch. 7 para. 14 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

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Codes of practice on employment : use in proceedings

- 15 In section 56A of the Sex Discrimination Act 1975 (codes of practice in the field of employment), in subsection (10) (relevance of codes in proceedings under that Act before [^{F19}employment tribunals]), after the words under this Act there shall be inserted the words “ or the ^{M7}Equal Pay Act 1970 ”.

Textual Amendments

F19 Words in Sch. 7 para. 15 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

Marginal Citations

M7 1970 c. 41.

Parliamentary procedure: orders modifying application of redundancy provisions

^{F20}16

Textual Amendments

F20 Sch. 7 para. 16 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

Miscellaneous minor corrections and amendments

- 17 In section 21(6) of the 1992 Act (repudiation by trade union of certain acts) for the words six months there shall be substituted the words “ three months ”.
- 18 In section 34(5) of the 1992 Act (eligibility for appointment as auditor), the second sentence shall be omitted.
- 19 In section 35(5) of the 1992 Act (appointment and removal of auditors)—
- (a) for the words subsections (1) to (6) there shall be substituted the words “ subsections (1) to (4) ”, and
 - (b) for the words subsection (7) there shall be substituted the words “ subsection (5) ”.
- 20 In section 110(3) of the 1992 Act (consideration by Commissioner of application for assistance for certain legal proceedings) for the word (f) there shall be substituted the word “ (e) ” and for the words or ballot there shall be substituted the words “ or political ballot ”.
- 21 In section 158 of the 1992 Act (special award in cases of dismissal on grounds related to union membership or activities) after subsection (6) there shall be inserted—
- “(7) Schedule 14 to the ^{M8}Employment Protection (Consolidation) Act 1978 (calculation of a week’s pay) shall apply for the purposes of this section with the substitution, for paragraph 7, of the following:—

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For the purposes of this Part in its application to section 158 of the ^{M9}Trade Union and Labour Relations (Consolidation) Act 1992, the calculation date is—

- (a) where the dismissal was with notice, the date on which the employer’s notice was given;
- (b) where paragraph (a) does not apply, the effective date of termination.”.

Marginal Citations

M8 1978 c. 44.

M9 1992 c. 52.

- 22 In section 166(1) of the 1992 Act (consequences of failure to comply with order of reinstatement or re-engagement), for (5)(a) there shall be substituted “ (5) ”.
- 23 In section 187(2) of the 1992 Act (meaning of refusal to deal where refusal on grounds of union exclusion), paragraph (c) shall become subparagraph,
“(iii)”
of
paragraph (b)
and
there
shall
be
inserted
as
paragraph (c)
the
following,
preceded
by “
or ”,
namely—
“(c) he terminates a contract with that person for the supply of goods or services.”.
- 24 In section 228 of the 1992 Act (separate workplace ballots before action by trade union) after subsection (3) there shall be inserted—
“(4) In this section “place of work”, in relation to any person who is employed, means the premises occupied by his employer at or from which that person works or, where he does not work at or from any such premises or works at or from more than one set of premises, the premises occupied by his employer with which his employment has the closest connection.”.
- 25 In section 229(3) of the 1992 Act (voting paper for industrial action ballot) for the word 20(3) there shall be substituted the word “ 20(2) ”.
- 26 In section 246 of the 1992 Act (minor definitions relating to industrial action provisions) the definition of “place of work” shall be omitted.
- 27 In section 278(4)(c) of the 1992 Act (House of Commons staff), after the word in there shall be inserted the word “ section ”.

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SCHEDULE 8

Section 49(2).

CONSEQUENTIAL AMENDMENTS

The Factories Act 1961 (c. 34)

- 1 In section 119A of the Factories Act 1961 (notice of employment of a young person to be sent to local careers office), in subsection (2)(a) (definition of “local careers office”), for the words from , under to the arrangements) there shall be substituted the words “ services are provided in pursuance of arrangements made, or a direction given, under section 10 of the ^{M10}Employment and Training Act 1973 in the area ”.

Commencement Information

- I1** Sch. 8 para. 1 wholly in force at 1.4.1995; Sch. 8 para. 1 not in force at Royal Assent see s. 52; Sch. 8 para. 1 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

Marginal Citations

- M10** 1973 c. 50.

The Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments and authorities subject to investigation) there shall be inserted at the appropriate place—
“ Office of the Commissioner for Protection Against Unlawful Industrial Action. ”.

The Chronically Sick and Disabled Persons Act 1970 (c. 44)

- 3 In section 13(2) of the Chronically Sick and Disabled Persons Act 1970 (youth employment service), for the words section 10(1) there shall be substituted the words “ section 10(6) ”.

Commencement Information

- I2** Sch. 8 para. 3 wholly in force at 1.4.1995; Sch. 8 para. 3 not in force at Royal Assent see s. 52; Sch. 8 para. 3 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

The Employment Agencies Act 1973 (c. 35)

- 4 In section 13(7) of the Employment Agencies Act 1973 (exclusions from provisions of that Act), after paragraph (g) there shall be inserted—
“(ga) services provided in pursuance of arrangements made, or a direction given, under section 10 of the Employment and Training Act 1973;”.

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Commencement Information

- I3** Sch. 8 para. 4 wholly in force at 1.4.1995; Sch. 8 para. 4 not in force at Royal Assent see s. 52; Sch. 8 para. 4 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

The Employment and Training Act 1973 (c. 50)

- 5 In section 5(2)(a) of the Employment and Training Act 1973 (power to appoint advisers with respect to performance of certain functions), for the words from on him to the end there shall be substituted the words “ or imposed on him by sections 2, 8 to 10 and 12 of this Act; and ”.

Commencement Information

- I4** Sch. 8 para. 5 wholly in force at 1.4.1995; Sch. 8 para. 5 not in force at Royal Assent see s. 52; Sch. 8 para. 5 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

The House of Commons Disqualification Act 1975 (c. 24)

- 6 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) there shall be inserted at the appropriate place— “ Commissioner for Protection Against Unlawful Industrial Action. ”.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 7 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) there shall be inserted at the appropriate place— “ Commissioner for Protection Against Unlawful Industrial Action. ”.

The Sex Discrimination Act 1975 (c. 65)

- 8 In section 15 of the Sex Discrimination Act 1975 (employment agencies etc.)—
- (a) for subsection (2) there shall be substituted—
- “(2) It is unlawful for a local education authority or education authority or any other person to do any act in providing services in pursuance of arrangements made, or a direction given, under section 10 of the ^{M11}Employment and Training Act 1973 which constitutes discrimination.”, and
- (b) in subsection (5), for the words or an education authority there shall be substituted the words “ , education authority or other person ”.

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

Commencement Information

I5 Sch. 8 para. 8 wholly in force at 1.4.1995; Sch. 8 para. 8 not in force at Royal Assent see s. 52; Sch. 8 para. 8 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

Marginal Citations

M11 1973 c. 50.

The Race Relations Act 1976 (c. 74)

9 In section 14 of the Race Relations Act 1976 (employment agencies etc.)—

(a) for subsection (2) there shall be substituted—

“(2) It is unlawful for a local education authority or education authority or any other person to do any act in providing services in pursuance of arrangements made, or a direction given, under section 10 of the Employment and Training Act 1973 which constitutes discrimination.”, and

(b) in subsection (5), for the words or an education authority there shall be substituted the words “ , education authority or other person ”.

Commencement Information

I6 Sch. 8 para. 9 wholly in force at 1.4.1995; Sch. 8 para. 9 not in force at Royal Assent see s. 52; Sch. 8 para. 9 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

The Employment Protection (Consolidation) Act 1978 (c. 44)

F21¹⁰

Textual Amendments

F21 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

F22¹¹

Textual Amendments

F22 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

F23¹²

Textual Amendments

F23 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

F24¹³

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

Textual Amendments

F24 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 243, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

F25 14

Textual Amendments

F25 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

F26 15

Textual Amendments

F26 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

F27 16

Textual Amendments

F27 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

F28 17

Textual Amendments

F28 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

F29 18

Textual Amendments

F29 Sch. 8 paras. 10-18 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

F30 19

Textual Amendments

F30 Sch. 8 para. 19 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

F31 20

Textual Amendments

F31 Sch. 8 para. 20 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

F32 21

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

Textual Amendments

F32 Sch. 8 paras. 21-27 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F33}22

Textual Amendments

F33 Sch. 8 paras. 21-27 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F34}23

Textual Amendments

F34 Sch. 8 paras. 21-27 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F35}24

Textual Amendments

F35 Sch. 8 paras. 21-27 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F36}25

Textual Amendments

F36 Sch. 8 paras. 21-27 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F37}26

Textual Amendments

F37 Sch. 8 paras. 21-27 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F38}27

Textual Amendments

F38 Sch. 8 paras. 21-27 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

^{F39}28

Textual Amendments

F39 Sch. 8 paras. 28-30 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38)

^{F40}29

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

Textual Amendments

F40 Sch. 8 paras. 28-30 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, Sch. 3 Pt. I (with s. 38)

^{F41}30

Textual Amendments

F41 Sch. 8 paras. 28-30 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, Sch. 3 Pt. I (with s. 38)

^{F42}31

Textual Amendments

F42 Sch. 8 para. 31 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

^{F43}32

Textual Amendments

F43 Sch. 8 para. 32 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

The Agricultural Training Board Act 1982 (c. 9)

33 In section 4(1)(f) of the Agricultural Training Board Act 1982 (functions of the Agricultural Training Board), at the end there shall be inserted the words “ and may provide services or arrange for the provision of services in pursuance of arrangements made, or a direction given, under section 10 of the ^{M12}Employment and Training Act 1973 (careers services) ”.

Commencement Information

I7 Sch. 8 para. 33 wholly in force at 1.4.1995; Sch. 8 para. 33 not in force at Royal Assent see s. 52; Sch. 8 para. 33 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

Marginal Citations

M12 1973 c. 50.

The Industrial Training Act 1982 (c. 10)

34 In section 5(3)(e) of the Industrial Training Act 1982 (functions of industrial training boards), at the end there shall be inserted the words “ and may provide services or arrange for the provision of services in pursuance of arrangements made, or a direction given, under section 10 of the Employment and Training Act 1973 (careers services) ”.

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

Commencement Information

- 18** Sch. 8 para. 34 wholly in force at 1.4.1995; Sch. 8 para. 34 not in force at Royal Assent see s. 52; Sch. 8 para. 34 in force in relation to England and Scotland at 1.4.1994 and for all other purposes at 1.4.1995 by S.I. 1993/2503, art. 2(3), Sch. 3.

The Insolvency Act 1986 (c. 45)

F44 35

Textual Amendments

- F44** Sch. 8 paras. 35-37 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

The Wages Act 1986 (c. 48)

F45 36

Textual Amendments

- F45** Sch. 8 para. 35-37 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

F46 37

Textual Amendments

- F46** Sch. 8 paras. 35-37 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

The Employment Act 1988 (c. 19)

38 In subsection (1) of section 26 (status of trainees etc.) of the Employment Act 1988—

- (a) after the words under section 2(3) there shall be inserted the words “ or section 14A ”; and
- (b) for the words the said section 2, or as the case may be the said section 2(3) there shall be substituted the words “ any of those three sections ”.

The Legal Aid Act 1988 (c. 34)

39 In Part II of Schedule 2 to the Legal Aid Act 1988 (excepted proceedings), after paragraph 5A there shall be inserted—

- “5B Proceedings to the extent that they consist in, or arise out of, an application to the court under section 235A of the ^{M13}Trade Union and Labour Relations (Consolidation) Act 1992.”

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

Marginal Citations

M13 1992 c. 52.

The Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

- 40 In section 25 of the 1992 Act (application to Certification Officer as respects failures in relation to the register of members)—
- (a) in subsection (1), after the words section 24 there shall be inserted the words “ or 24A ”; and
 - (b) after subsection (7), there shall be inserted—
 - “(8) The Certification Officer shall not entertain an application for a declaration as respects an alleged failure to comply with the requirements of section 24A in relation to a ballot to which that section applies unless the application is made before the end of the period of one year beginning with the last day on which votes could be cast in the ballot.”.
- 41 In section 26 of the 1992 Act (application to court as respects failures in relation to the register of members)—
- (a) in subsection (1), after the words section 24 there shall be inserted the words “ or 24A ”; and
 - (b) after subsection (6) there shall be inserted—
 - “(7) The court shall not entertain an application for a declaration as respects an alleged failure to comply with the requirements of section 24A in relation to a ballot to which that section applies unless the application is made before the end of the period of one year beginning with the last day on which votes could be cast in the ballot.”.
- 42 In section 32 of the 1992 Act (annual return), after subsection (6) there shall be inserted—
- “(7) For the purposes of this section and section 32A “member of the executive” includes any person who, under the rules or practice of the union, may attend and speak at some or all of the meetings of the executive, otherwise than for the purpose of providing the committee with factual information or with technical or professional advice with respect to matters taken into account by the executive in carrying out its functions.”.
- 43 In section 43(1) (provisions not to apply in case of newly-formed trade unions)—
- (a) in paragraph (b) (disapplication of sections 32 to 37), after the words annual return, there shall be inserted the words “ statement for members, ”; and
 - (b) after that paragraph there shall be inserted—
 - “(ba) sections 37A to 37E (investigation of financial affairs), and”.

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

Commencement Information

- 19** Sch. 8 para. 43 wholly in force at 1.1.1994; Sch. 8 para. 43 not in force at Royal Assent see s. 52; Sch. 8 para. 43(b) in force at 30.8.1993 and para. 43(a) in force at 1.1.1994 by S.I. 1993/1908, art. 2(1)(3), Schs. 1, 3.

- 44 In section 44 of the 1992 Act (discharge of duties in case of union having branches or sections)—
- (a) in subsections (2) and (4), for the words sections 32 to 37 there shall be substituted the words “ sections 32 and 33 to 37 ”, and
 - (b) after subsection (4) there shall be inserted—
 - “(5) Where the duty falling on a trade union under section 32 to send to the Certification Officer a return relating to its affairs is treated as discharged by the union by virtue of subsection (2) or (4) of this section, the duties imposed by section 32A in relation to the return shall be treated as duties of the branch or section of the union, or the trade union of which it is a branch or section, by which that duty is in fact discharged.”.
- 45 In section 45(1) of the 1992 Act (offences for breach of duty under sections 32 to 37 etc.), after the words annual return, there shall be inserted the words “ statement for members, ”.
- 46 In section 49(3)(a) of the 1992 Act (election scrutineer to supervise certain matters), for the words and distribution of the voting papers there shall be substituted the words “ of the voting papers and (unless he is appointed under section 51A to undertake the distribution of the voting papers) their distribution ”.
- 47 In section 62 of the 1992 Act (right of trade union members to obtain order to prevent inducement to take part in industrial action not having support of a ballot)—
- (a) at the end of subsection (1) (stating the right) there shall be inserted the following paragraph—

“In this section “the relevant time” means the time when the application is made.”; and
 - (b) in subsection (2) (circumstances in which action has such support), for paragraphs (a) to (c) there shall be substituted—
 - “(a) the union has held a ballot in respect of the action—
 - (i) in relation to which the requirements of section 226B so far as applicable before and during the holding of the ballot were satisfied,
 - (ii) in relation to which the requirements of sections 227 to 231 were satisfied, and
 - (iii) in which the majority voting in the ballot answered Yes to the question applicable in accordance with section 229(2) to industrial action of the kind which the applicant has been or is likely to be induced to take part in;
 - (b) such of the requirements of the following sections as have fallen to be satisfied at the relevant time have been satisfied, namely—

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- (i) section 226B so far as applicable after the holding of the ballot, and
- (ii) section 231B; and
- (c) the requirements of section 233 (calling of industrial action with support of ballot) are satisfied.

Any reference in this subsection to a requirement of a provision which is disapplied or modified by section 232 has effect subject to that section.”.

48 In section 64 of the 1992 Act (right not to be unjustifiably disciplined), in subsection (5) (enforcement provisions not to affect remedy for infringement of other rights), for the words and nothing there shall be substituted the words “ and, subject to section 66(4), nothing ”.

49 In section 65(7) of the 1992 Act (definitions related to unjustifiable discipline)—

- (a) in the definition of “contract of employment”, at the end, there shall be inserted the words “ , “employer” includes such a person and related expressions shall be construed accordingly; ”; and
- (b) at the end, there shall be inserted the following definition, preceded by the word “ and ”

““wages” shall be construed in accordance with the definitions of “contract of employment”, “employer” and related expressions.”.

50 In section 66 of the 1992 Act (complaint of infringement of right not to be unjustifiably disciplined), for subsection (4) there shall be substituted—

“(4) Where a complaint relating to an expulsion which is presented under this section is declared to be well-founded, no complaint in respect of the expulsion shall be presented or proceeded with under section 174 (right not to be excluded or expelled from trade union).”.

51 In section 67 of the 1992 Act (compensation for right not to be unjustifiably disciplined)—

- (a) in subsection (8) (application of maximum and minimum limits of compensation)—
 - (i) for the words awarded against a trade union on an application under this section there shall be substituted the words “ calculated in accordance with subsections (5) to (7) ”, and
 - (ii) for the words 156(1) of this Act (minimum basic award in certain cases of unfair dismissal) there shall be substituted the words “ 176(6) of this Act (minimum award by Employment Appeal Tribunal in cases of exclusion or expulsion from union) ”, and
- (b) subsection (9) (limits to be applied before reduction for failure to mitigate etc.) shall cease to have effect.

52 In section 97(1)(b) and (2)(b) of the 1992 Act (amalgamation or transfer of engagements), for the words sections 99 and 100 (notice to members and passing of resolution) there shall be substituted the words “ section 99 (notice to members) and section 100 (resolution to be passed by required majority on ballot held in accordance with sections 100A to 100E) ”.

53 In section 98(1) of the 1992 Act (instrument of amalgamation or transfer to be submitted for approval of Certification Officer before resolution to approve it is voted on by members), for the words from the resolution to the end there shall be

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Changes to legislation: *There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)*

- substituted the words “ a ballot of the members of any amalgamating union, or (as the case may be) of the transferor union, is held on the resolution to approve the instrument. ”.
- 54 In section 99(1) of the 1992 Act (notice of instrument to be supplied to members), for the words from that, not less to supplied with there shall be substituted the words “ that every voting paper which is supplied for voting in the ballot on the resolution to approve the instrument of amalgamation or transfer is accompanied by ”.
- 55 In section 101 of the 1992 Act (registration of instrument of amalgamation or transfer), after subsection (2) there shall be inserted—
- “ (3) An application for registration of an instrument of amalgamation or transfer shall not be sent to the Certification Officer until section 100E(6) has been complied with in relation to the scrutineer’s report on the ballot held on the resolution to approve the instrument. ”.
- 56 In section 103 of the 1992 Act (complaints about passing of resolution approving instrument of amalgamation or transfer), for subsection (1) there shall be substituted—
- “ (1) A member of a trade union who claims that the union—
- (a) has failed to comply with any of the requirements of sections 99 to 100E, or
- (b) has, in connection with a resolution approving an instrument of amalgamation or transfer, failed to comply with any rule of the union relating to the passing of the resolution,
- may complain to the Certification Officer. ”.
- 57 In section 106 of the 1992 Act (amalgamation or transfer involving Northern Ireland union)—
- (a) in subsection (2), for the words 98 to 100 (approval of instrument; notice to members; passing of resolution) there shall be substituted the words “ 98 to 100E and 101(3) (approval of instrument, notice to members and ballot on resolution) ”, and
- (b) in subsection (4), for the words section 103 there shall be substituted the words “ sections 103 and 104 ”.
- 58 In section 109 of the 1992 Act (proceedings in relation to which assistance may be provided by Commissioner)—
- (a) in subsection (1)—
- (i) in paragraph (c) after the word members there shall be inserted the words “ or secure confidentiality ”; and
- (i) after paragraph (d) there shall be inserted—
- “ (da) an application to the court under section 45C (remedy for failure to comply with duty to secure positions not held by certain offenders); ”, and
- (b) in subsection (2), for the words from in the High Court to arise out of there shall be substituted the words “ to the extent that they consist in, or arise out of, proceedings in the High Court or the Court of Session with respect to ”.

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- 59 In section 110(1) of the 1992 Act (application for assistance from Commissioner for the Rights of Trade Union Members for certain legal proceedings), for the words to the Commissioner there shall be substituted the words “to the Commissioner for the Rights of Trade Union Members (in this Chapter referred to as the Commissioner)”.
- 60 In section 111 of the 1992 Act (provision of assistance by that Commissioner), for subsection (3) there shall be substituted—
- “(3) Where assistance is provided with respect to the conduct of proceedings—
- (a) it shall include an agreement by the Commissioner to indemnify the applicant (subject only to any exceptions specified in the notification) in respect of any liability to pay costs or expenses arising by virtue of any judgment or order of the court in the proceedings,
 - (b) it may include an agreement by the Commissioner to indemnify the applicant in respect of any liability to pay costs or expenses arising by virtue of any compromise or settlement arrived at in order to avoid the proceedings or bring the proceedings to an end, and
 - (c) it may include an agreement by the Commissioner to indemnify the applicant in respect of any liability to pay damages pursuant to an undertaking given on the grant of interlocutory relief (in Scotland, an interim order) to the applicant.”.

61 In section 117(5) of the 1992 Act (provisions operating only in relation to certain positions in case of special register bodies), for the words Chapter IV (elections for certain union positions) only applies there shall be substituted the words “Sections 45B and 45C (disqualification) and Chapter IV (elections) apply only”.

62 In section 118(4) of the 1992 Act (provisions not to apply in case of federated trade unions consisting wholly or mainly of representatives of constituent or affiliated organisations)—

 - (a) in paragraph (c) (disapplication of sections 32 to 37), after the words annual return, there shall be inserted the words “statement for members,” and
 - (b) after that paragraph there shall be inserted—
 - “(ca) sections 37A to 37E (investigation of financial affairs), and”.

Commencement Information

I10 Sch. 8 para. 62 wholly in force at 1.1.1994; Sch. 8 para. 62 not in force at Royal Assent see s. 52; Sch. 8 para. 62(b) in force at 30.8.1993 and para. 62(a) in force at 1.1.1994 by S.I. 1993/1908, art. 2(1)(3), Schs. 1, 3.

- 63 In section 119 of the 1992 Act (expressions relating to trade unions)—
- (a) before the definition of “branch or section” there shall be inserted—
 - ““agent” means a banker or solicitor of, or any person employed as an auditor by, the union or any branch or section of the union;”, and
 - (b) after the definition of “executive” there shall be inserted—

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Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

““financial affairs” means affairs of the union relating to any fund which is applicable for the purposes of the union (including any fund of a branch or section of the union which is so applicable);”.

- 64 In section 131(1) of the 1992 Act (administrative provisions applying to employers’ associations)—
- (a) for the words sections 32 to 37 there shall be substituted the words “ section 32(1), (2), (3)(a), (b) and (c) and (4) to (6) and sections 33 to 37 ”,
 - (b) after the word audit, there shall be inserted—

“sections 37A to 37E (investigation of financial affairs),” , and
 - (c) for the words section 45 there shall be substituted the words “ sections 45 and 45A ”.

Commencement Information

III Sch. 8 para. 64 wholly in force at 1.1.1994; Sch. 8 para. 64 not in force at Royal Assent see s. 52; Sch. 8 para. 64(b)(c) in force at 30.8.1993 and para. 64(a) in force at 1.1.1994 by S.I. 1993/1908, art. 2(1)(2), Schs. 1, 3.

- 65 For section 133 of the 1992 Act (employers’ associations: amalgamations etc.) there shall be substituted—

“133 Amalgamations and transfers of engagements.

- (1) Subject to subsection (2), the provisions of Chapter VII of Part I of this Act (amalgamations and similar matters) apply to unincorporated employers’ associations as in relation to trade unions.
 - (2) In its application to such associations that Chapter shall have effect—
 - (a) as if in section 99(1) for the words from that every to accompanied by there were substituted the words that, not less than seven days before the ballot on the resolution to approve the instrument of amalgamation or transfer is held, every member is supplied with,
 - (b) as if the requirements imposed by sections 100A to 100E consisted only of those specified in sections 100B and 100C(1) and (3)(a) together with the requirement that every member must, so far as is reasonably possible, be given a fair opportunity of voting, and
 - (c) with the omission of sections 101(3) and 107.”.
- 66 In section 135(3) of the 1992 Act (provisions not to apply in case of federated employers’ associations consisting wholly or mainly of representatives of constituent or affiliated organisations)—
- (a) in paragraph (c) (disapplication of sections 32 to 37), for the words sections 32 to 37 there shall be substituted the words “ section 32(1), (2), (3)(a), (b) and (c) and (4) to (6) and sections 33 to 37 ”, and
 - (b) after that paragraph there shall be inserted—

“(ca) sections 37A to 37E (investigation of financial affairs), and”.

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Reform and Employment Rights Act 1993. (See end of Document for details)

Commencement Information

I12 Sch. 8 para. 66 wholly in force at 1.1.1994; Sch. 8 para. 66 not in force at Royal Assent see s. 52; Sch. 8 para. 66(b) in force at 30.8.1993 and para. 66(a) in force at 1.1.1994 by S.I. 1993/1908, art. 2(1)(3), Schs. 1, 3.

^{F47}67

Textual Amendments

F47 Sch. 8 para. 67 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

- 68 In section 158(2) of the 1992 Act (minimum amount of special award in certain cases), the words “, but subject to the following provisions of this section.” shall be inserted at the end.
- 69 In section 164(1)(a) of the 1992 Act (order in such a case for continuation of contract for purposes of pay or any benefit derived from the employment), for the words any benefit there shall be substituted the words “ any other benefit ”.
- 70 In section 191(1)(a) of the 1992 Act (no remuneration under protective award for period after fair dismissal for a reason other than redundancy), for the words for a reason other than redundancy there shall be substituted the words “ otherwise than as redundant ”.
- 71 In section 198(1)(b) of the 1992 Act (power to adapt provisions in case of collective agreement establishing arrangements for the handling of redundancies), for the words the handling of redundancies there shall be substituted the words “ handling the dismissal of employees as redundant ”.
- 72 In section 219 of the 1992 Act (protection of acts in contemplation or furtherance of trade dispute from certain tort liabilities), in subsection (4) for the words from to section 226 to the end there shall be substituted the words “ to sections 226 (requirement of ballot before action by trade union) and 234A (requirement of notice to employer of industrial action); and in those sections “not protected” means excluded from the protection afforded by this section or, where the expression is used with reference to a particular person, excluded from that protection as respects that person. ”.
- 73 In section 226 of the 1992 Act (act of trade union not protected unless industrial action has support of a ballot)—
- (a) at the end of subsection (1) (requiring the ballot) there shall be inserted the following paragraph —

“In this section “the relevant time”, in relation to an act by a trade union to induce a person to take part, or continue to take part, in industrial action, means the time at which proceedings are commenced in respect of the act.”;
 - (b) in subsection (2) (circumstances in which action has such support) for paragraphs (a) to (c) there shall be substituted—
 - “(a) the union has held a ballot in respect of the action—
 - (i) in relation to which the requirements of section 226B so far as applicable before and during the holding of the ballot were satisfied,

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- (ii) in relation to which the requirements of sections 227 to 231A were satisfied, and
- (iii) in which the majority voting in the ballot answered Yes to the question applicable in accordance with section 229(2) to industrial action of the kind to which the act of inducement relates;
- (b) such of the requirements of the following sections as have fallen to be satisfied at the relevant time have been satisfied, namely—
 - (i) section 226B so far as applicable after the holding of the ballot, and
 - (ii) section 231B; and
- (c) the requirements of section 233 (calling of industrial action with support of ballot) are satisfied.

Any reference in this subsection to a requirement of a provision which is disapplied or modified by section 232 has effect subject to that section.”; and

- (c) in subsection (3) (separate workplace ballots), for the words from section 228(1), to in relation there shall be substituted the words “section 228(1)—
 - (a) industrial action shall be regarded as having the support of a ballot if the conditions specified in subsection (2) are satisfied, and
 - (b) the trade union shall be taken to have complied with the requirements relating to a ballot imposed by section 226A if those requirements are complied with,

in relation ”.

- 74 In section 232 of the 1992 Act (balloting of overseas members)—
- (a) in subsection (1) (sections 227 to 230 not to apply), for the words 227 to 230 there shall be substituted the words “ 226B to 230 and 231B ”, and
 - (b) for subsection (2) (operation of section 231) there shall be substituted—
 - “(2) Where overseas members have voted in the ballot—
 - (a) the references in sections 231 and 231A to persons entitled to vote in the ballot do not include overseas members, and
 - (b) those sections shall be read as requiring the information mentioned in section 231 to distinguish between overseas members and other members.”.
- 75 In section 235 of the 1992 Act (meaning of contract of employment and related expressions)—
- (a) for 234 there shall be substituted “ 234A ”; and
 - (b) for the words and related expressions there shall be substituted the words “ and employer and other related expressions ”.
- 76 In section 237 of the 1992 Act (no right to complain of unfair dismissal in case of employee taking part in unofficial industrial action), after subsection (1) there shall be inserted—

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“(1A) Subsection (1) does not apply to the dismissal of the employee if it is shown that the reason (or, if more than one, the principal reason) for the dismissal or, in a redundancy case, for selecting the employee for dismissal was one of those specified in section 57A or 60 of the ^{M14}Employment Protection (Consolidation) Act 1978 (dismissal in health and safety cases and maternity cases).

In this subsection “redundancy case” has the meaning given in section 59 of that Act.”.

Commencement Information

I13 Sch. 8 para. 76 wholly in force at 10.6.1994; Sch. 8 para. 76 not in force at Royal Assent see s. 52; Sch. 8 para. 76 in force at 30.8.1993 so far as it relates to s. 57A of the 1978 Act by S.I. 1993/1908, art. 2(1), Sch. 1; Sch. 8 para. 76 in force at 10.6.1994 in so far as not already in force by S.I. 1994/1365, art. 2, Sch. (with transitional provision in art. 3)

Marginal Citations

M14 1978 c. 44.

77 In section 238 of the 1992 Act (tribunal not to determine whether or not dismissal is fair where there is a lock-out or industrial action), after subsection (2) there shall be inserted—

“(2A) Subsection (2) does not apply to the dismissal of the employee if it is shown that the reason (or, if more than one, the principal reason) for the dismissal or, in a redundancy case, for selecting the employee for dismissal was one of those specified in section 57A or 60 of the Employment Protection (Consolidation) Act 1978 (dismissal in health and safety cases and maternity cases).

In this subsection “redundancy case” has the meaning given in section 59 of that Act.”.

Commencement Information

I14 Sch. 8 para. 77 wholly in force at 10.6.1994; Sch. 8 para. 77 not in force at Royal Assent see s. 52; Sch. 8 para. 77 in force at 30.8.1993 so far as it relates to s. 57A of the 1978 Act by S.I. 1993/1908, art. 2(1), Sch. 1; Sch. 8 para. 77 in force at 10.6.1994 in so far as not already in force by S.I. 1994/1365, art. 2, Sch.

78 In section 254 of the 1992 Act (Certification Officer), after subsection (5) there shall be inserted—

“(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.”.

79 For section 266 of the 1992 Act (Commissioner for the Rights of Trade Union Members) and the heading immediately preceding it there shall be substituted—

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*“ The Commissioner for the Rights of Trade Union Members and
the Commissioner for Protection Against Unlawful Industrial Action*

266 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.”.

80 In section 267 of the 1992 Act (terms of appointment of Commissioner for the Rights of Trade Union Members)—

- (a) in subsection (1), for the words The Commissioner there shall be substituted the words “ Each of the Commissioners ”,
- (b) in subsection (2), for the words the Commissioner there shall be substituted the words “ one of the Commissioners ”, and
- (c) in subsection (3)—
 - (i) for the words that office there shall be substituted the words “ office as one of the Commissioners ”, and
 - (ii) for the words his functions as the Commissioner there shall be substituted the words “ the functions of the office ”.

81 In section 268 of the 1992 Act (remuneration, pension etc. of Commissioner)—

- (a) in subsection (1), for the words the Commissioner there shall be substituted the words “ each of the Commissioners ”,
- (b) in subsection (2), for the words any holder of the office of Commissioner there shall be substituted the words “ any person who holds office as one of the Commissioners ”, and

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- (c) in subsection (3), for the words the Commissioner there shall be substituted the words “ one of the Commissioners ”.

82 In section 269 of the 1992 Act (staff of Commissioner)—

- (a) in subsection (1), for the words The Commissioner there shall be substituted the words “ Each of the Commissioners ”,
- (b) in subsection (2), for the words the Commissioner there shall be substituted the words “ one of the Commissioners ”,
- (c) in subsection (3)—
- (i) for the words the Commissioner becomes the Commissioner there shall be substituted the words “ one of the Commissioners becomes one of the Commissioners ”, and
- (ii) for the words the Commissioner shall be treated for the purposes of the scheme as service as an employee of the Commissioner there shall be substituted the words “ Commissioner shall be treated for the purposes of the scheme as service as an employee ”, and
- (d) in subsection (4), for the words The Commissioner is not there shall be substituted the words “ Neither of the Commissioners is ”.

83 In section 270 of the 1992 Act (financial provisions relating to Commissioner)-

- (a) in subsection (1), for the words The Commissioner there shall be substituted the words “ Each of the Commissioners ”, and
- (b) in subsection (2)—
- (i) for the words to the Commissioner there shall be substituted the words “ to each of the Commissioners ”, and
- (ii) for the words by the Commissioner there shall be substituted the words “ by him ”.

84 In section 271 of the 1992 Act (annual report and accounts of Commissioner)—

- (a) in subsection (1), for the words the Commissioner there shall be substituted the words “ each of the Commissioners ”, and
- (b) in subsections (2) and (3), for the words The Commissioner there shall be substituted the words “ Each of the Commissioners ”.

85 In section 278 of the 1992 Act (House of Commons staff)—

- (a) after subsection (2) there shall be inserted—
- “(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 [F48 employment tribunal] proceedings of any description which could be brought before such a tribunal by any person who is not such a member.”, and
- (b) in subsection (3) at the end there shall be inserted—
- ““civil employment claim” means a claim arising out of or relating to a contract of employment or any other contract connected with

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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.”.

Textual Amendments

F48 Words in Sch. 8 para. 85 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

F49 86

Textual Amendments

F49 Sch. 8 para. 86 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, Sch. 3 Pt. I (with s. 38)

F50 87

Textual Amendments

F50 Sch. 8 para. 87 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, Sch. 3 Pt. I (with s. 38)

88 In section 296 of the 1992 Act (meaning of worker and employer), after subsection (2) there shall be inserted—

“(3) This section has effect subject to section 68(11).”.

89 In section 299 of the 1992 Act (index of defined expressions)—

(a) after the entry relating to advertisement there shall be inserted—

“agent (of trade union)» section 119”,

(b) after the entry relating to dismiss and dismissal there shall be inserted—

“the duty of confidentiality»section 24A(3)”, and

(c) after the entry relating to executive there shall be inserted—

“financial affairs (of trade union)»section 119”.

SCHEDULE 9

Section 50.

TRANSITIONAL PROVISIONS AND SAVINGS

General

- 1 (1) An order under section 52 of this Act may contain such transitional provisions and savings as appear to the Secretary of State to be appropriate.
- (2) Nothing in the following provisions of this Schedule prejudices the generality of subparagraph (1) above.
- (3) Nothing in this Schedule prejudices the operation of sections 16 and 17 of the ^{M15}Interpretation Act 1978 (effect of repeals).

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Subordinate Legislation Made

- P1** Sch. 9 para. 1 power partly exercised (27.7.1993); different dates appointed for specified provisions by S.I. 1993/1908, art. 2, **Schs. 1-3** (with transitional provisions in art. 3)
Sch. 9 para. 1 power partly exercised (15.10.1993); different dates appointed for specified provisions by S.I. 1993/2503, art. 2, **Schs. 1-3** (with transitional provisions in art. 3)
Sch. 9 para. 1 power partly exercised (19.5.1994); 10.6.1994 appointed for specified provisions by S.I. 1994/1365, art. 2, **Sch.** (with transitional provisions in art. 3)

Marginal Citations

- M15** 1978 c. 30.

Deduction of trade union subscriptions

- 2 For the purposes of section 68 of the 1992 Act (as substituted by section 15 of this Act) a deduction representing a payment to a trade union in respect of a worker's membership which is made in accordance with arrangements existing between his employer and the union immediately before the day on which section 15 comes into force under which deductions were made in his case before that day shall be treated as an authorised deduction where—
- (a) the day on which the deduction is made falls before the end of the period of one year beginning with the day on which section 15 comes into force, and
 - (b) written notice from the worker stating that he does not wish such deductions to be made has not been received by the employer in time for it to be reasonably practicable for him to secure that the deduction is not made.

Employment particulars

- ^{F51}3

Textual Amendments

- F51** Sch. 9 para. 3 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191-195, 202)

Transfers of undertakings

- 4 The amendments of the ^{M16}Transfer of Undertakings (Protection of Employment) Regulations 1981 made by section 33 of this Act shall not have effect in relation to any transfer of an undertaking taking place before the date on which that section comes into force; and, accordingly, the repeal by this Act of—
- (a) section 94 of the 1978 Act, and
 - (b) section 23 of the ^{M17}Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965,
- shall have effect only in relation to any change in the ownership of a business occurring on or after that date.

Marginal Citations

- M16** S.I. 1981/1794.

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M17 1965 c. 19 (N.I.).

Wages Councils

- 5 (1) Notwithstanding the repeal of Part II of the ^{M18}Wages Act 1986 by section 35 of this Act, the provisions of that Part specified or referred to below shall continue to have effect, on and after the day appointed for the repeal (the appointed day), in accordance with the following provisions.
- (2) Section 16 (effect and enforcement of wages orders under section 14) shall have effect in relation to a failure occurring or continuing on or after the appointed day to pay, with respect to any period ending before that day, an amount equal to or exceeding the statutory minimum remuneration as it has effect in relation to such a failure before the appointed day; and, subject to the following provisions, the other sections of Part II which relate to section 16 shall continue to have effect accordingly.
- (3) Section 19(1) and (4) (obligation to keep records etc) shall have effect on and after the appointed day as if—
- (a) the reference to the provisions of Part II being complied with in relation to the payment of remuneration were a reference to their having been complied with in relation to payments of remuneration made—
 - (i) before the appointed day, or
 - (ii) on or after the appointed day with respect to any period ending before that day;
 - (b) the reference to deductions or payments made were references to deductions or payments so made; and
 - (c) in a case where the three-year retention period for records would end after the expiry of the period of six months beginning with the appointed day, the retention period were—
 - (i) that period of six months, or
 - (ii) if within that period of six months a court so orders, such longer period as is specified by the court;
- and, subject to the following provisions, the other sections of Part II which relate to section 19 shall continue to have effect accordingly.
- (4) Section 20 (wages inspectors) shall continue to have effect on and after the appointed day for the purposes of this paragraph; but—
- (a) the powers conferred by subsections (3) and (4) shall not be exercisable after the end of the period of six months beginning with the appointed day, and
 - (b) subsection (6) shall not authorise the institution of proceedings by a wages inspector after the end of the period of six months beginning with the appointed day.
- (5) Paragraph 4 of Schedule 3 shall continue to have effect on and after the appointed day in relation to orders under section 14 made before that day.
- (6) In the operation of any provision of Part II by virtue of this paragraph, references to a wages order applying shall have effect as references to an order under section 14 having applied at any time before the appointed day.

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Marginal Citations

M18 1986 c. 48.

SCHEDULE 10

Section 51.

REPEALS AND REVOCATIONS

Commencement Information

I15 Sch. 10 partly in force; Sch. 10 not in force at Royal Assent see s. 52; Sch. 10 in force in relation to specified repeals and revocations: at 30.8.1993, 30.11.1993, 1.1.1994 and 1.4.1996 by S.I. 1993/1908, art. 2, Schs. 1-3; at 15.10.1993, 30.11.1993, 1.4.1994 and 1.4.1995 by S.I. 1993/2503, art. 2, Schs. 1-3; Sch. 10 in force at 10.6.1994 except in so far as mentioned by S.I. 1994/1365, art. 2, Sch. (with transitional provision in art. 3)

Chapter or Number	Title	Extent of repeal or revocation
9 & 10 Eliz. 2 c. 34. 1965 c. 19 (N.I.).	Factories Act 1961. Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965.	Section 117(5)(b). Sections 23 and 23A. In section 29(1), the words (except section 23). Section 32(4). Section 54(2). In Schedule 5, paragraph 2.
1968 c. 73.	Transport Act 1968.	Section 94(10).
1969 c. 32.	Finance Act 1969.	In section 58(4), in the Table, the entries relating to a local education authority in England and Wales and an education authority in Scotland.
1970 c. 44.	Chronically Sick and Disabled Persons Act 1970.	Section 13(1).
1973 c. 50.	Employment and Training Act 1973.	In section 4(3)(e)(ii), the words a local education authority. In section 4(5)(d), the words a local education authority or and by section 8 of this Act or, as the case may be,.

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1975 c. 24.	House of Commons Disqualification Act 1975.	In Part III of Schedule 1, the first entry beginning Member of a Wages Council.
1975 c. 25.	Northern Ireland Assembly Disqualification Act 1975.	In Part III of Schedule 1, the first entry beginning Member of a Wages Council.
S.I. 1976/1043 (N.I. 16).	Industrial Relations (Northern Ireland) Order 1976.	In Schedule 5, in Part II, paragraphs 19, 20 and 23(3).
1978 c. 44.	Employment Protection (Consolidation) Act 1978.	<p>Section 11(3) and (7).</p> <p>In section 18, in subsection (1), the words council or, subsection (2) (a), in subsection (3)(a), the words (a) or, and in subsection (5), the words council or.</p> <p>In section 53(4), the words against his employer.</p> <p>In section 55(5) and (6), , 64A.</p> <p>Section 64A.</p> <p>Section 93(4).</p> <p>Sections 94 and 95.</p> <p>In section 100(1), the words (except section 94).</p> <p>In section 123(4), the words , maternity pay under Part III of this Act.</p> <p>In section 128(4), the words paragraph 1 of.</p> <p>In section 133(1)(c), the words or claims.</p> <p>In section 138, in subsection (1) the words (so far as it relates to itemised pay statements) and in subsection (2) the words , subject to subsections (3) to (5),.</p> <p>In section 139(1), the words (so far as it relates to itemised pay statements).</p>

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		In section 146(4), the words 1, 4,.
		In section 149(1)(c), 64A(1),.
		In section 153, in subsection (1), the definitions of “confinement”, “expected week of confinement” and “original contract of employment” and subsection (3).
		In Schedule 9, in paragraph 1A(2)(a) the words person or and paragraph 8.
		In Schedule 12, paragraph 13.
		In Schedule 13, in paragraph 11(1), , 64A(1).
		In Schedule 15, paragraph 10(2).
1979 c. 36.	Nurses, Midwives and Health Visitors Act 1979.	In Schedule 7, paragraph 31.
1980 c. 42.	Employment Act 1980.	Section 8(1). Section 11. In Schedule 1, paragraphs 10, 21(a) and 32.
1980 c. 44.	Education (Scotland) Act 1980.	Sections 126 to 128.
S.I. 1981/1794.	Transfer of Undertakings (Protection of Employment) Regulations 1981.	In Regulation 2(1), in the definition of “undertaking”, the words from but does not to the end. Regulation 11(7).
1982 c. 9.	Agricultural Training Board Act 1982.	In section 4(1)(f), the words or 8.
1982 c. 10.	Industrial Training Act 1982.	In section 5(3)(e), the words or 8.
1982 c. 46.	Employment Act 1982.	In Schedule 2, paragraphs 8(1) to (4) and (5)(a).
1986 c. 48.	Wages Act 1986.	Section 9(3). Part II. Section 31(a) and (b). In section 33, in subsection (2) the entries relating to sections 24 and

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		25(1) to (3), in subsection (4) the words from Part II (excluding to relating to Part II; and in subsection (7) the words from paragraphs 5 to thereto,.
		Schedules 2 and 3.
		In Schedule 4, paragraphs 5 to 7.
		In Schedule 6, paragraphs 1 to 8.
1986 c. 50.	Social Security Act 1986.	In Schedule 10, paragraph 75.
1988 c. 1.	Income and Corporation Taxes Act 1988.	In section 175(4), the words Part II of the Wages Act 1986,.
1989 c. 13.	Dock Work Act 1989.	Section 6(2).
1989 c. 24.	Social Security Act 1989.	In Schedule 5, paragraph 15.
1989 c. 38.	Employment Act 1989.	Section 13. In Schedule 6, paragraph 18.
1990 c. 35.	Enterprise and New Towns (Scotland) Act 1990.	In section 2(3), the word and at the end of paragraph (b).
1992 c. 24.	Offshore Safety (Protection Against Victimisation) Act 1992.	The whole Act.
1992 c. 52.	Trade Union and Labour Relations (Consolidation) Act 1992.	Section 24(4).
		In Section 32(3), the word and at the end of paragraph (b).
		In section 34(5), the second sentence.
		In section 43(1), the word and at the end of paragraph (b).
		In section 52(1), the word and at the end of paragraph (c).
		In section 65(2), the word or at the end of paragraph (d).
		In section 65(7), the word and following the definition of “contract of employment”.
		Section 67(9).

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In section 74(3), the word and at the end of the entry relating to section 77.

In section 78(1), the word and at the end of paragraph (c).

Sections 115 and 116.

In section 118(4), the word and at the end of paragraph (c).

In section 135(3), the word and at the end of paragraph (c).

In section 154, the words and 64A.

In section 188(4), the word and at the end of paragraph (d).

Section 190(3).

In section 209, the words from and in particular to the end.

In section 246, the definition of “place of work”.

In section 249(2), the first sentence.

Section 256(4).

Section 273(4)(c).

In section 277(2), the words under those sections.

Section 283.

In section 288(1)(b), the word unreasonable.

In section 290(e), the word unreasonable and the words where employment subject to union membership agreement.

In section 291, subsection (1) and, in subsection (2), the words any other provision of.

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In section 299, the entries relating to the Commissioner and redundancy.

In Schedule 2, paragraphs 15, 24(3) and 34(3).

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