

# Trade Union and Labour Relations Act 1974

## CHAPTER 52

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Section

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## ELIZABETH II



# Trade Union and Labour Relations Act 1974

## 1974 CHAPTER 52

An Act to repeal the Industrial Relations Act 1971; to make provision with respect to the law relating to trade unions, employers' associations, workers and employers, including the law relating to unfair dismissal, and with respect to the jurisdiction and procedure of industrial tribunals; and for connected purposes [31st July 1974]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Repeal of Industrial Relations Act 1971*

1.—(1) The Industrial Relations Act 1971 is hereby repealed. Repeal of  
Industrial  
Relations Act

(2) Nevertheless, Schedule 1 to this Act shall have effect for re-enacting, with amendments consequential on the following sections of this Act and other amendments, the under-mentioned provisions of that Act, that is to say— 1971 and  
re-enactment  
of certain  
provisions.  
1971 c. 72.

- (a) Part I of that Schedule so re-enacts sections 2 to 4 (code of practice);
- (b) Part II of that Schedule so re-enacts sections 22 to 33 (unfair dismissal);
- (c) Part III of that Schedule so re-enacts sections 100, 106, 116, 118 and 159 and Schedule 6 (jurisdiction and procedure of industrial tribunals and other provisions with respect to those tribunals); and

- (d) Part IV so re-enacts sections 146, 148, 149, 150, 151, 155, 161 and 162 (conciliation officers, and miscellaneous and supplementary provisions).

(3) The repeal by this section of the following provisions of the 1971 Act, that is to say, sections 7(2) and (3), 11 to 18, 31, 32, 37 to 55, 76, 77, 99, 101 to 105, 111, 112, 114, 115, 129, 136, 138 to 145 and 160 and Schedule 1 (jurisdiction, functions and constitution of the National Industrial Relations Court) shall take effect on the passing of this Act and on the passing of this Act that Court is hereby abolished.

*Status and regulation of trade unions and employers' associations*

Status of trade unions.

2.—(1) A trade union which is not a special register body shall not be, or be treated as if it were, a body corporate, but—

- (a) it shall be capable of making contracts ;
- (b) all property belonging to the trade union shall be vested in trustees in trust for the union ;
- (c) subject to section 14 below, it shall be capable of suing and being sued in its own name, whether in proceedings relating to property or founded on contract or tort or any other cause of action whatsoever ;
- (d) proceedings for any offence alleged to have been committed by it or on its behalf may be brought against it in its own name ; and
- (e) any judgment, order or award made in proceedings of any description brought against the trade union on or after the commencement of this section shall be enforceable, by way of execution, diligence, punishment for contempt or otherwise, against any property held in trust for the trade union to the like extent and in the like manner as if the union were a body corporate.

1948 c. 38. (2) A trade union which is not a special register body shall not be registered as a company under the Companies Act 1948 and accordingly any registration of any such union under that Act (whenever effected) shall be void.

1896 c. 25.  
1965 c. 12. (3) No trade union shall be registered under the Friendly Societies Act 1896 or the Industrial and Provident Societies Act 1965 and accordingly any registration of a trade union under either of those Acts (whenever effected) shall be void.

(4) A trade union (other than a special register body) which, immediately before the commencement of this section, was a body corporate shall, on that commencement, cease to be a body

corporate and the provisions of section 19 below (as well as this section and section 4 below) shall apply to the trade union on and after that commencement.

(5) The purposes of any trade union which is not a special register body and, in so far as they relate to the regulation of relations between employers or employers' associations and workers, the purposes of any trade union which is such a body, shall not, by reason only that they are in restraint of trade, be unlawful so as—

(a) to make any member of the trade union liable to criminal proceedings for conspiracy or otherwise; or

(b) to make any agreement or trust void or voidable;

nor shall any rule of a trade union which is not a special register body or, in so far as it so relates, any rule of any other trade union be unlawful or unenforceable by reason only that it is in restraint of trade.

**3.—**(1) An employers' association may be either a body corporate or an unincorporated association. Status of employers' associations.

(2) Where an employers' association is unincorporated—

(a) it shall be capable of making contracts;

(b) all property belonging to the employers' association shall be vested in trustees in trust for the association;

(c) subject to section 14 below, it shall be capable of suing and being sued in its own name, whether in proceedings relating to property or founded on contract or tort or any other cause of action whatsoever;

(d) proceedings for any offence alleged to have been committed by it or on its behalf may be brought against it in its own name; and

(e) any judgment, order or award made in proceedings of any description brought against the employers' association on or after the commencement of this section shall be enforceable, by way of execution, diligence, punishment for contempt or otherwise, against any property held in trust for the employers' association to the like extent and in the like manner as if the association were a body corporate.

(3) Any employers' association which became a body corporate by virtue of section 74 of the 1971 Act shall cease to be a body corporate by virtue of that section at the expiration of the period of six months beginning with the commencement of this section and the provisions of section 19 below (as well as this section and section 4 below) shall apply to it on and after

the expiration of that period, unless before the expiration of that period it has again become a body corporate.

1948 c. 38.

(4) Nothing in section 434 of the Companies Act 1948 (associations of over twenty members for certain purposes must be incorporated or otherwise formed in special ways) shall be taken to prevent the formation of an employers' association which is neither registered as a company under that Act nor otherwise incorporated.

(5) The purposes of an unincorporated employers' association and, in so far as they relate to the regulation of relations between employers and workers or trade unions, the purposes of an employers' association which is a body corporate, shall not, by reason only that they are in restraint of trade, be unlawful so as—

- (a) to make any member of the association liable to criminal proceedings for conspiracy or otherwise; or
- (b) to make any agreement or trust void or voidable;

nor shall any rule of an unincorporated employers' association or, in so far as it so relates, any rule of an employers' association which is a body corporate be unlawful or unenforceable by reason only that it is in restraint of trade.

Supplementary provisions about property of trade unions and unincorporated employers' associations.  
1925 c. 19  
1958 c. 23  
(N.I.).

4.—(1) Sections 39 and 40 of the Trustee Act 1925 and sections 38 and 39 of the Trustee Act (Northern Ireland) 1958 (vesting of property on retirement of trustee or appointment of new trustee) shall, in their application to trustees in whom any property is vested in trust for a trade union or an unincorporated employers' association to which this subsection applies, each have effect as if for any reference to a deed there were substituted a reference to an instrument in writing and as if in subsection (4) of section 40 of the said Act of 1925 and of section 39 of the said Act of 1958 paragraphs (a) and (c) were omitted.

(2) Subsection (1) above applies to a trade union (other than a special register body) and to an unincorporated employers' association whose name is (in either case) for the time being entered in the list of trade unions or of employers' associations under section 8 below.

(3) An instrument in writing appointing a new trustee of a trade union or unincorporated employers' association to which subsection (1) above applies is referred to in this section as an "instrument of appointment" and an instrument in writing discharging a trustee of such a union or association is referred to as an "instrument of discharge"; and for the purposes of this section (and the sections of the Acts of 1925 and 1958 applied by subsection (1) above), where a trustee of such a union

or association is appointed or discharged by a resolution taken by or on behalf of the union or association, the written record of the resolution shall be treated as if it were the instrument in writing appointing or, as the case may be, discharging that trustee.

(4) Where by any enactment or instrument the transfer of securities of any description is required to be effected or recorded by means of entries in a register, then, if—

- (a) there is produced to the person who is authorised or required to keep the register, a copy of an instrument of appointment or of an instrument of discharge which contains or has attached to it a list identifying the securities of that description held in trust for the union or association to which the instrument relates at the date of the appointment or discharge ;  
and

(b) it appears to that person that any of the securities so identified are included in the register kept by him, he shall, notwithstanding anything in section 75 or 117 of the Companies Act 1948 or any other enactment or instrument 1948 c. 38. regulating the keeping of the register, make such entries as may be necessary to give effect to the instrument of appointment or of discharge.

(5) A document which purports to be a copy of an instrument of appointment or of an instrument of discharge containing or having attached to it such a list and to be certified to be a copy of such an instrument in accordance with subsection (6) below shall be taken to be a copy of such an instrument unless the contrary is proved.

(6) The certificate referred to in subsection (5) above shall be given by the president and general secretary (or persons occupying positions equivalent to those of president and general secretary) of the union or association to which the instrument relates and, in the case of an instrument to which the list of securities is attached, shall appear both on the instrument and on the list.

(7) Nothing done for the purposes of or in pursuance of subsection (4) above shall be taken to affect any person with notice of any trust or to impose on any person a duty to inquire into any matter.

(8) In relation to a trade union or an employers' association whose principal office is situated in Scotland, references in this section to the appointment and to the discharge of a trustee shall be construed as including respectively references to the assumption and to the resignation of a trustee, and references to an instrument appointing, and to an instrument discharging, a trustee shall be construed accordingly.

Rights of workers as to arbitrary or unreasonable exclusion or expulsion from trade union.

5.—(1) Subject to the provisions of this section, every worker shall have the right not to be—

- (a) excluded from membership,
- (b) expelled from membership,

of a trade union or a branch or section of a trade union by way of arbitrary or unreasonable discrimination.

(2) The exclusion or expulsion of a worker from membership of a union, branch or section shall not be deemed to be arbitrary or unreasonable if the worker is of a description different from that or those of the majority of the members of that union, branch or section (as the case may be) or does not possess the appropriate qualifications for such membership.

(3) A worker aggrieved by his exclusion or expulsion from any trade union, branch or section may apply to an industrial tribunal in accordance with industrial tribunal regulations for a declaration that he is entitled to be a member of that union, branch or section.

(4) Where any such declaration has been made and has not been implemented by the union, branch or section concerned within any period specified in the declaration or if no such period is specified within a reasonable period, the worker may apply to the High Court or, in Scotland, the Court of Session for an injunction, interdict or such other relief (including compensation) as the Court may think just and expedient in all the circumstances of the case.

(5) Nothing in this section or section 2(5) above shall prejudice or in any way reduce the common law rights of a person who has applied to join, but not been given membership of, or who claims to be and to remain a member of, or who has been expelled from, a trade union.

Provisions as to rules of trade unions and employers' associations.

6.—(1) The rules of every trade union and employers' association shall contain provisions in respect of the matters mentioned in the following subsections of this section.

(2) The rules must specify the name of the trade union or employers' association, the address of its principal office and the objects for which it was established.

(3) The rules must make provision as to the purposes for which, and the manner in which, any property or funds of the trade union or employers' association are authorised to be applied or invested.

(4) If any financial benefits are to be available for members of the trade union or employers' association out of its property or funds, the rules must make provision as to the amounts of those benefits and the circumstances in which they are to be available to members.



(5) The rules must specify the manner in which any rules of the trade union or employers' association can be made, altered or revoked.

(6) The rules must make provision for the election or appointment of officers and for the manner in which officers can be removed from office.

(7) The rules must make provision—

- (a) for the election of a governing body and for its re-election at reasonable intervals ;
- (b) for the manner in which members of the governing body can be removed from office.

(8) If the trade union or employers' association has officials (whether they are shop stewards, workplace representatives or other officials) who are not officers of the trade union or employers' association, the rules must make provision for their election or appointment and for the manner in which they can be removed from office.

(9) The rules must make provision as to the manner in which, for any purposes of the trade union or employers' association, elections are to be held or ballots taken, including the following:—

- (a) notification of vacancies and qualification of candidates ;
- (b) making of nominations ;
- (c) canvassing or content of election addresses, where these are permitted ;
- (d) eligibility for voting in any such election or ballot ;
- (e) procedure preparatory to any election or ballot ;
- (f) the procedure for counting and scrutiny of the votes and ballot papers ; and
- (g) the procedure for the declaration or notification of the result of any such election or ballot.

(10) The rules must specify the descriptions of persons who are eligible for membership of the trade union or employers' association or a branch or section of the trade union or employers' association and the procedure for dealing with applications for membership, including provision for appeals against decisions of the committee or other body responsible for determining such applications.

(11) The rules must specify—

- (a) the offences for which the trade union or employers' association is entitled under the rules to expel a member or take other disciplinary action, and the penalties applicable for each of those offences ;

- (b) the procedure for the hearing of cases in which offences against the rules are alleged ; and
- (c) the procedure with respect to appeals against any decision on any such hearing.

(12) The rules must prescribe a procedure for settling disputes between a member and the trade union or employers' association or an officer of the trade union or employers' association.

(13) In making provision for any hearing or a determination of any question, whether in relation to an alleged offence, an appeal or a dispute, the rules shall be so framed as not to depart from, or permit any departure from, the rules of natural justice.

**Right to terminate membership of trade union.**

7. Every member of a trade union, or branch or section thereof, shall have the right, on giving reasonable notice and complying with any reasonable conditions, to terminate his membership at any time of the trade union or branch or section thereof.

**Lists of trade unions and employers' associations.**

8.—(1) The Registrar of Friendly Societies (in this Act referred to as the Registrar) shall maintain a list of trade unions and a list of employers' associations containing the names of those organisations which are entitled to have their names entered therein under the following provisions of this section.

(2) The Registrar shall enter in the list of trade unions or employers' associations, as the case may be, the name of every organisation of workers or of employers which—

- (a) was on 30th September 1971 registered (whether by that or any other name) as a trade union under the Trade Union Acts 1871 to 1964 ; or
- (b) has since that date been formed by the amalgamation of a number of such organisations each of which was so registered ; or
- (c) was immediately before the commencement of this section affiliated to the Trades Union Congress ; or
- (d) was immediately before that commencement registered as a trade union under section 68(4) of the 1971 Act or as an employers' association under section 72(4) of that Act ;

except an organisation which appears to him not to be a trade union or, as the case may be, employers' association within the meaning of this Act.

(3) Any organisation of workers or of employers, whenever formed, whose name is not entered in the relevant list may apply to the Registrar to have its name so entered and, subject to

subsection (5) below, the Registrar shall, if satisfied that the organisation is a trade union or employers' association and that subsection (4) below has been complied with, enter the name of that organisation in the relevant list.

(4) An application under subsection (3) above shall be made in such form and manner as the Registrar may require and be accompanied by a fee of £10 or such other fee as may be prescribed by regulations made by the Secretary of State and also by—

- (a) a copy of the rules of the organisation ;
- (b) a list of its officers ;
- (c) the address of its head or main office ; and
- (d) the name under which it is or is to be known.

(5) The Registrar shall not under subsection (3) above enter the name of an organisation in the relevant list if that name is—

- (a) the same as a name under which another organisation was registered as a trade union under the Trade Union Acts 1871 to 1964 on 30th September 1971 or was registered at any time as a trade union or employers' association under the 1971 Act or is for the time being entered in either list ; or
- (b) a name so nearly resembling any such name as to be likely to deceive the public.

(6) If it appears to the Registrar, whether on application made to him or otherwise, that an organisation whose name is entered in the relevant list is not a trade union or employers' association or that its rules do not comply with the provisions of this Act, he may remove its name from the relevant list, but shall not do so without giving the organisation notice of his intention to do so and without considering any representations made to him by the organisation during a period specified in the notice (being not less than twenty-eight days beginning with the date of the notice).

(7) Any organisation aggrieved by the refusal of the Registrar to enter its name in the relevant list or by a decision of his to remove its name from that list may appeal to the High Court, or in Scotland the Court of Session, within the time and in the manner directed by rules of court ; and on any such appeal the Court, if satisfied that that name should be or remain so entered, shall declare that fact and give directions to the Registrar accordingly.

(8) Rules of court may provide for excluding, in the case of appeals under subsection (7) above, so much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as 1925 c. 49.

requires appeals to the High Court to be heard and determined by a divisional court; but no appeal to the Court of Appeal shall be brought against a decision of the High Court on an appeal under that subsection except with the leave of the High Court or the Court of Appeal.

(9) The Registrar shall at all reasonable hours keep available for public inspection (free of charge) copies of the lists of trade unions and employers' associations, as for the time being in force, and a copy of each list shall be included in the annual report made by the Chief Registrar of Friendly Societies under section 6 of the Friendly Societies Act 1896.

1896 c. 25.

(10) On the application of any organisation whose name is included in the list of trade unions or employers' associations the Registrar shall issue it with a certificate that its name is included in the relevant list; and any document purporting to be such a certificate shall be evidence (and in Scotland sufficient evidence) that the name of the organisation is entered in the relevant list and that the organisation is a trade union or employers' association, as the case may be.

Application of existing Acts referring to registered trade unions, employers' associations, etc.

**9.**—(1) An enactment passed, or an instrument made under an enactment, before the commencement of this section which refers (or is to be construed as referring) to a trade union registered under the Trade Union Acts 1871 to 1964 or a trade union or employers' association registered under the 1971 Act, shall, on and after that commencement, have effect as if it referred to a trade union or employers' association within the meaning of this Act.

(2) Where an enactment passed, or an instrument made under an enactment, before the commencement of this section refers (or is to be construed as referring) to an organisation of workers or to an organisation of employers (within the meaning of the 1971 Act), it shall, on and after that commencement, have effect as if it referred to a trade union or an employers' association, as the case may be.

1970 c. 10.

(3) Subsections (1) and (2) above shall not apply to any enactment contained in the Income and Corporation Taxes Act 1970 or any other enactment relating to income tax or corporation tax.

Duty to keep accounting records.

**10.**—(1) This section applies to every trade union and every employers' association except one which consists wholly or mainly of representatives of constituent or affiliated organisations (of the description referred to in subsection (1)(b)(ii) or subsection (2)(b)(ii) of section 28 below).

(2) Every trade union and every employers' association to which this section applies shall—

- (a) cause to be kept proper accounting records with respect to its transactions and its assets and liabilities ; and
- (b) establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and remittances.

(3) For the purposes of paragraph (a) above proper accounting records shall not be taken to be kept with respect to the matters mentioned in that paragraph if there are not kept such records as are necessary to give a true and fair view of the state of the affairs of the trade union or employers' association and to explain its transactions.

(4) Where a trade union or employers' association consists of or includes branches or sections, then—

- (a) any duty falling upon the union or association in relation to a branch or section under this section shall be treated as having been discharged to the extent to which a branch or section discharges that duty instead of the union or association ; and
- (b) any duty falling upon a branch or section under this section by reason of its being a trade union or employers' association shall be treated as having been discharged to the extent to which the union or association of which it is a branch or section discharges that duty instead of the branch or section.

11.—(1) This section applies to every trade union and every employers' association to which section 10 above applies except a union or association which has been in existence for less than 12 months.

Duties as to annual returns, auditors and members' superannuation schemes.

(2) Every trade union and every employers' association to which this section applies shall send the Registrar as respects every calendar year a return relating to its affairs.

(3) Every trade union and every employers' association to which this section applies shall appoint an auditor or auditors to audit the accounts contained in its annual return.

(4) Every trade union and every employers' association to which this section applies shall at the request of any person, supply him with a copy of its rules and of its most recent annual return either free of charge or on payment of a reasonable charge.

(5) The Registrar shall at all reasonable hours keep available for public inspection, either free of charge or on payment of a reasonable charge, copies of all annual returns sent to him under this section.

(6) The provisions of Part I of Schedule 2 to this Act shall have effect with respect to the annual return and to the qualifications, appointment, removal and functions of auditors of trade unions and employers' associations to which this section applies.

(7) The provisions of Part II of Schedule 2 to this Act shall have effect with respect to members' superannuation schemes maintained or to be maintained by trade unions or employers' associations to which this section applies.

(8) Where a trade union or employers' association consists of or includes branches or sections, then—

(a) any duty falling upon the union or association in relation to a branch or section under this section or Schedule 2 to this Act shall be treated as having been discharged to the extent to which a branch or section discharges that duty instead of the union or association ; and

(b) any duty falling upon a branch or section under this section or Schedule 2 to this Act by reason of its being a trade union or employers' association shall be treated as having been discharged to the extent to which the union or association of which it is a branch or section discharges that duty instead of the branch or section.

#### Offences.

**12.**—(1) If a trade union or an employers' association refuses or wilfully neglects to perform a duty imposed on it by or under any of the provisions of section 10 or 11 above or Schedule 2 to this Act the trade union or employers' association shall be guilty of an offence.

(2) Subject to subsection (3) below, any offence committed by a trade union or an employers' association under subsection (1) above shall be deemed to have been also committed by—

(a) every officer of that trade union or employers' association who is bound by the rules of the union or association to discharge on its behalf the duty breach of which constitutes that offence ; or

(b) if there is no such officer, every member of the general committee of management of the union or association.

(3) In any proceedings brought against an officer or member by virtue of subsection (2) above in respect of any breach of duty, it shall be a defence for him to prove that he had reasonable cause to believe, and did believe, that some other person who was competent to discharge that duty was authorised to discharge it instead of him and had discharged it or would do so.

(4) A person who wilfully alters or causes to be altered a document which is required for the purposes of any of the provisions of section 10 or 11 above or Schedule 2 to this Act, with

intent to falsify the document or to enable a trade union or employers' association to evade any of those provisions, shall be guilty of an offence.

(5) For every offence committed under this section the trade union, employers' association or other person guilty of the offence shall be liable on summary conviction—

- (a) in the case of an offence under subsection (1) above, to a fine not exceeding £100 ;
- (b) in the case of an offence under subsection (4) above, to a fine not exceeding £400.

*Restrictions on legal liability and legal proceedings*

13.—(1) An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable in tort on the ground only—

Acts in contemplation or furtherance of trade disputes.

- (a) that it induces another person to break a contract of employment ; or
- (b) that it consists in his threatening that a contract of employment (whether one to which he is a party or not) will be broken or that he will induce another person to break a contract of employment to which that other person is a party.

(2) For the avoidance of doubt it is hereby declared that an act done by a person in contemplation or furtherance of a trade dispute is not actionable in tort on the ground only that it is an interference with the trade, business or employment of another person, or with the right of another person to dispose of his capital or his labour as he wills.

(3) For the avoidance of doubt it is hereby declared that—

- (a) an act which by reason of subsection (1) or (2) above is itself not actionable ;
- (b) a breach of contract in contemplation or furtherance of a trade dispute ;

shall not be regarded as the doing of an unlawful act or as the use of unlawful means for the purpose of establishing liability in tort.

(4) An agreement or combination by two or more persons to do or procure the doing of any act in contemplation or furtherance of a trade dispute shall not be actionable in tort if the act is one which, if done without any such agreement or combination, would not be actionable in tort.

Immunity of  
trade unions  
and employers'  
associations  
to actions in  
tort.

**14.**—(1) Subject to subsection (2) below, no action in tort shall lie in respect of any act—

- (a) alleged to have been done by or on behalf of a trade union which is not a special register body or by or on behalf of an unincorporated employers' association ; or
- (b) alleged to have been done, in connection with the regulation of relations between employers or employers' associations and workers or trade unions, by or on behalf of a trade union which is a special register body or by or on behalf of an employers' association which is a body corporate ; or
- (c) alleged to be threatened or to be intended to be done as mentioned in paragraph (a) or (b) above ;

against the union or association in its own name, or against the trustees of the union or association, or against any members or officials of the union or association on behalf of themselves and all other members of the union or association.

(2) Subsection (1) above shall not affect the liability of a trade union or employers' association to be sued in respect of the following, if not arising from an act done in contemplation or furtherance of a trade dispute, that is to say—

- (a) any negligence, nuisance or breach of duty (whether imposed on them by any rule of law or by or under any enactment) resulting in personal injury to any person ; or
- (b) without prejudice to paragraph (a) above, breach of any duty so imposed in connection with the ownership, occupation, possession, control or use of property (whether real or personal or, in Scotland, heritable or moveable).

(3) In this section "personal injury" includes any disease and any impairment of a person's physical or mental condition.

Peaceful  
picketing.

**15.** It shall be lawful for one or more persons in contemplation or furtherance of a trade dispute to attend at or near—

- (a) a place where another person works or carries on business ; or
- (b) any other place where another person happens to be, not being a place where he resides,

for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working.



16. No court shall, whether by way of—

- (a) an order for specific performance or specific implement of a contract of employment, or
- (b) an injunction or interdict restraining a breach or threatened breach of such a contract,

No  
compulsion  
to work.

compel an employee to do any work or attend at any place for the doing of any work.

17. Where an application for an injunction or interdict is made to a court in the absence of the party against whom the injunction or interdict is sought or any representative of his, and that party claims, or in the opinion of the court would be likely to claim, that he acted in contemplation or furtherance of a trade dispute, the court shall not grant the injunction or interdict unless satisfied that all steps which in the circumstances were reasonable have been taken with a view to securing that notice of the application and an opportunity of being heard with respect to the application have been given to that party.

Restriction on  
grant of  
ex parte  
injunctions  
and  
interdicts.

#### *Collective Agreements*

18.—(1) Subject to subsection (3) below, any collective agreement made before 1st December 1971 or after the commencement of this section shall be conclusively presumed not to have been intended by the parties to be a legally enforceable contract unless the agreement—

Enforceability  
of collective  
agreements.

- (a) is in writing, and
- (b) contains a provision which (however expressed) states that the parties intended that the agreement shall be a legally enforceable contract.

(2) Any such agreement which satisfies the conditions in subsection (1)(a) and (b) above shall be conclusively presumed to have been intended by the parties to be a legally enforceable contract.

(3) If any such agreement is in writing and contains a provision which (however expressed) states that the parties intend that one or more parts of the agreement specified in that provision, but not the whole of the agreement, shall be a legally enforceable contract, then—

- (a) the specified part or parts shall be conclusively presumed to have been intended by the parties to be a legally enforceable contract; and
- (b) the remainder of the agreement shall be conclusively presumed not to have been intended by the parties to be such a contract, but a part of an agreement which by virtue of this paragraph is not a legally enforceable

contract may be referred to for the purpose of interpreting a part of that agreement which is such a contract.

(4) Notwithstanding anything in subsections (2) and (3) above, any terms of a collective agreement (whether made before or after the commencement of this section) which prohibit or restrict the right of workers to engage in a strike or other industrial action, or have the effect of prohibiting or restricting that right, shall not form part of any contract between any worker and the person for whom he works unless the collective agreement—

- (a) is in writing; and
- (b) contains a provision expressly stating that those terms shall or may be incorporated in such a contract; and
- (c) is reasonably accessible at his place of work to the worker to whom it applies and is available for him to consult during working hours; and
- (d) is one where each trade union which is a party to the agreement is an independent trade union;

and unless the contract with that worker expressly or impliedly incorporates those terms in the contract.

(5) Subsection (4) above shall have effect notwithstanding any provision to the contrary in any agreement (including a collective agreement or a contract with any worker).

#### *Miscellaneous*

Transitional provisions for trade unions and employers' associations ceasing to be incorporated.

**19.**—(1) The provisions of this section shall have effect in relation to a trade union or an employers' association to which they are applied by section 2(4) or 3(3) above; and in this section "the relevant date" means the day on which, under section 2(4) or 3(3) above, such a trade union or employers' association ceases to be a body corporate.

(2) On the relevant date—

- (a) all property vested in the trade union or in the employers' association immediately before that date shall by virtue of this paragraph (and without the execution of any instrument) vest in the trustees who, in accordance with subsection (3) below, are the appropriate trustees;
- (b) all liabilities, obligations and rights of the trade union or of the employer's association subsisting immediately before that date shall, in so far as they are liabilities, obligations or rights affecting any property so vested (instead of continuing to be liabilities, obligations or rights of the union or association) become liabilities, obligations and rights of the trustees who, in accordance with subsection (3) below, are the appropriate trustees.

(3) The appropriate trustees for the purposes of subsection (2) above are—

- (a) the trustees appointed in writing for the purposes of this section by or on behalf of the members of the trade union or employers' association ;
- (b) in a case where no such trustees are appointed, the official trustees of the trade union or employers' association.

(4) A certificate given by the official trustees of a trade union or employers' association that the persons named in the certificate are the appropriate trustees of that union or association for the purposes of subsection (2) above shall be conclusive evidence that those persons are the appropriate trustees of that union or association for those purposes ; and a document which purports to be such a certificate shall be taken to be such a certificate unless the contrary is proved.

(5) In this section "official trustees", in relation to a trade union or an employers' association, means the two officers of the union or association who, on the relevant date, are the president and the general secretary of the union or association or occupy a position equivalent to that of president and general secretary respectively of a trade union or employers' association.

(6) Nothing in section 12 of the Finance Act 1895 (which 1895 c. 16. requires certain Acts to be stamped as conveyances on sale) shall be taken as applying to this Act.

**20.**—(1) Where during the period commencing with 1st December 1970 and ending with the passing of this Act a trade union has— Power to alter certain rules of trade unions restricting the application of funds.

- (a) made or amended any rule of the union so as to preclude any particular fund belonging to or held in trust for the union from being used for financing strikes or other industrial action ; and

- (b) has declared in its rules that the rule or the rule as so amended shall be incapable of revocation or alteration ;

then, notwithstanding the declaration, the rule so made or amended may, subject to subsection (2) below, be revoked or amended.

(2) No rule of a trade union shall be revoked or amended by virtue of subsection (1) above after the expiration of the period of four years beginning with the date of the passing of this Act ; and nothing in that subsection shall be taken to authorise the amendment or revocation of a rule of a trade union otherwise than in accordance with the procedural rules of that union.

Effect of abolition of National Industrial Relations Court on pending proceedings and decisions given.

21.—(1) In this section and sections 22 and 23 below—

“the Court” means the National Industrial Relations Court ;

“abate”, in relation to any proceedings, means that the proceedings shall be treated as discontinued and, in relation to any decision, means that the decision, so far as not enforced, shall be unenforceable ;

“decision” includes a judgment, order or award and any reference to the giving of a decision shall be construed accordingly ;

“pending” means pending immediately before the passing of this Act ;

and for the purposes of this section and those sections proceedings shall be treated as pending in the Court or an industrial tribunal until a final decision is given in those proceedings by the Court or the tribunal, as the case may be.

(2) On the passing of this Act, except in so far as provision is made by subsections (3) to (7) below for proceedings of the descriptions mentioned in those subsections—

(a) proceedings commenced in the Court before 30th April 1974 and pending in the Court shall be transferred by virtue of this paragraph to the High Court or the Court of Session ;

(b) proceedings commenced in the Court on or after 30th April 1974 or any decision in those proceedings shall abate ;

(c) any right of appeal against any such decision other than a right saved by section 23(1) below shall be extinguished and any appeal from any such decision or any decision on any such appeal shall abate.

(3) Where a complaint has been presented to the Court under section 103 of the 1971 Act (complaints by Registrar against registered union or employers' association), then, if the complaint was presented before 30th April 1974 and is pending in the Court, the complaint shall, on the passing of this Act, be transferred by virtue of this subsection to an industrial tribunal.

(4) Where an appeal arising out of any proceedings or decision of an industrial tribunal has been instituted in the Court, then—

(a) in the case of an appeal which is pending in the Court and arose out of proceedings or a decision under the Contracts of Employment Act 1972 or the Redundancy Payments Act 1965 or on a complaint under the 1971 Act by an employee that he has been unfairly dismissed by his employer, the appeal shall on the passing of this Act be transferred by virtue of this paragraph, to the High Court or the Court of Session ;

- (b) in the case of an appeal of any other description, the appeal shall, if the proceedings in the industrial tribunal were commenced before 30th April 1974 and the appeal is pending in the Court, be transferred by virtue of this paragraph on the passing of this Act to the High Court or the Court of Session;
- (c) in the case of an appeal of a description referred to in paragraph (b) above, where the proceedings in the industrial tribunal were commenced on or after 30th April 1974, the appeal or any decision on the appeal shall on the passing of this Act abate.

(5) Where an appeal arising out of proceedings before the Chief Registrar of Trade Unions and Employers' Associations or any assistant registrar of his has been instituted and is pending in the Court, then—

- (a) if the decision appealed from was made under any provision of the Trade Union Act 1913 (funds for <sup>1913 c. 30</sup> political purposes), the appeal shall on the passing of <sup>(2 & 3 Geo. V).</sup> this Act be transferred by virtue of this paragraph to the High Court or the Court of Session;
- (b) if the appeal is by way of case stated in proceedings on a complaint under section 4 of the Trade Union (Amalgamations, etc.) Act 1964 (complaints about resolutions <sup>1964 c. 24.</sup> to amalgamate), the appeal shall on the passing of this Act be so transferred by virtue of this paragraph;
- (c) if the appeal arises out of any other proceedings, the appeal or any decision on the appeal shall on the passing of this Act abate.

(6) Where a complaint has been transferred by an industrial tribunal to the Court by virtue of section 111 of the 1971 Act and is pending in the Court, then—

- (a) in the case of a complaint by an employee that he has been unfairly dismissed by his employer, the complaint shall on the passing of this Act be transferred by virtue of this paragraph back to the tribunal from which it was so transferred;
- (b) in the case of a complaint of any other description presented before 30th April 1974, the complaint shall on the passing of this Act be transferred by virtue of this paragraph back to the tribunal from which it was so transferred;
- (c) in the case of a complaint of a description referred to in paragraph (b) above presented on or after 30th April 1974, the complaint or any decision on the complaint shall on the passing of this Act abate.

(7) Where, under any provision of the 1971 Act, proceedings have been commenced in the Court at any time with a view to the making of a reference or request to the Commission on Industrial Relations, then—

- (a) if the proceedings are pending in the Court and no reference or request has been made in the proceedings, those proceedings shall on the passing of this Act abate ;
- (b) if a reference or request so made in those proceedings is outstanding immediately before the passing of this Act, the reference or request shall be treated as withdrawn on the passing of this Act, and, subject to subsection (10) below, those proceedings shall then abate ;
- (c) any order of the Court made in proceedings resulting from a reference or request to that Commission shall cease to have effect on the passing of this Act.

(8) Where proceedings are transferred by virtue of subsection (2), (4) or (5) above, the proceedings shall be transferred, in the case of proceedings in England and Wales, to the High Court and, in the case of proceedings in Scotland, to the Court of Session and may be continued there accordingly.

1925 c. 49.

(9) Rules of court relating to proceedings so transferred may provide for excluding so much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as requires appeals to the High Court to be heard and determined by a divisional court ; but no appeal to the Court of Appeal shall be brought against a decision of the High Court on an appeal transferred by virtue of any provision of this section except with the leave of the High Court or the Court of Appeal.

(10) Where a reference or a request by the Court to the Commission on Industrial Relations is treated as withdrawn by virtue of subsection (7)(b) above, the Secretary of State may authorise the Commission to make a report of its findings and recommendations on that reference or request to those persons appearing to the Commission to be directly concerned, and to arrange for the report to be published in such manner as the Commission consider appropriate ; and paragraph 43(1) of Schedule 3 to the 1971 Act (disclosure of information) shall not apply to that report.

Effect of  
repeals on  
pending  
proceedings  
and decisions  
given by  
industrial  
tribunals.

**22.** Where a complaint, other than a complaint that an employee has been unfairly dismissed by his employer, has been presented to an industrial tribunal under any provision of the 1971 Act on or after 30th April 1974, then, when the repeal of that provision by this Act takes effect—

- (a) the complaint or any decision on the complaint shall abate ;

- (b) any right of appeal against any such decision which is exercisable before that repeal takes effect shall be extinguished ;
- (c) any appeal from any such decision or any decision on any such appeal shall abate.

**23.**—(1) A decision given by the Court before the passing of this Act—

- (a) in proceedings commenced in the Court before 30th April 1974 ;
- (b) on an appeal instituted in the Court on or after 30th April 1974 in proceedings in which, if the appeal had been pending in the Court immediately before the passing of this Act, the appeal would have been transferred by virtue of any provision of section 21 above ; or
- (c) on a complaint which, if it had been pending in the Court immediately before the passing of this Act, would have been transferred back to an industrial tribunal by virtue of section 21(6) above ;

Provisions supplementary to sections 21 and 22.

may, so far as not enforced, be enforced after the passing of this Act as if it were a judgment of the High Court or the Court of Session, and any right of appeal from such a decision to the Court of Appeal or the Court of Session exercisable under paragraph 29 of Schedule 3 to the 1971 Act (appeals) shall continue to be exercisable, and any appeal from such a decision (whether instituted before or after the passing of this Act) shall be heard and determined accordingly, after the repeal of that paragraph by this Act takes effect.

(2) Without prejudice to section 38 of the Interpretation Act 1889 c. 63. 1889 (effect of repeals) any decision given by any court or tribunal—

- (a) in any proceedings (including proceedings under the 1971 Act) before the repeal by this Act of sections 153 and 154 of the 1971 Act (enforcement) takes effect, or
- (b) in any proceedings transferred to any court by virtue of any provision of section 21 above ;

and falling to be enforced to any extent after that repeal takes effect shall not be enforceable against property of any description against which it would not have been enforceable before that repeal takes effect by virtue of any provision of the said section 153 or 154, as the case may be.

(3) Where any right, obligation or liability has accrued or been incurred under any provision of the 1971 Act (other than a provision re-enacted in Schedule 1 to this Act) before the

repeal of that provision by this Act takes effect, but no proceedings have been commenced in any court or tribunal to enforce that right, obligation or liability, no proceedings to enforce it (directly or indirectly and by whatever means) shall be commenced in any court or tribunal after that repeal takes effect.

(4) If on an appeal from the Court after the passing of this Act the Court of Appeal would have exercised a power to order a new trial by the Court, the Court of Appeal shall order the re-hearing to be by the High Court.

Power to  
compensate  
for loss  
of office.

**24.**—(1) If it appears to the Secretary of State that a person who ceases to be a member of the Commission on Industrial Relations by reason of its abolition by this Act should receive compensation for loss of office, he may pay him out of moneys provided by Parliament such sum as he may with the approval of the Minister for the Civil Service determine.

(2) If it appears to the Lord Chancellor that a person who ceases to be a member of the National Industrial Relations Court by reason of its abolition by this Act should receive compensation for loss of office, he may pay him out of moneys provided by Parliament such sum as he may with the approval of the Minister for the Civil Service determine.

Miscellaneous  
amendments,  
and  
transitional  
provisions  
and repeals.

**25.**—(1) Schedule 3 to this Act shall have effect for undoing certain amendments and repeals made by the 1971 Act in certain enactments specified in that Schedule, for continuing the effect of other amendments so made and for making minor amendments and amendments consequential on other provisions of this Act in other enactments so specified.

(2) The transitional provisions in Schedule 4 shall have effect.

(3) The enactments specified in Schedule 5 are hereby repealed to the extent specified in the third column of that Schedule.

#### *Supplementary*

Regulations  
and orders.

**26.**—(1) The Secretary of State may make regulations for any purpose for which regulations are authorised or required to be made under this Act.

(2) Any power to make regulations under this Act shall be exercisable by statutory instrument.

(3) A statutory instrument containing any such regulations, other than regulations required to be laid in draft before Parliament before being made, shall be subject to annulment in pursuance of a resolution of either House of Parliament.



(4) Any power to make an order under any provision of this Act shall include power to revoke or vary the order by a subsequent order under that provision.

**27.** There shall be defrayed out of moneys provided by Expenses. Parliament—

- (a) any administrative expenses incurred by the Secretary of State in consequence of the provisions of this Act ; and
- (b) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

**28.—(1)** In this Act, except so far as the context otherwise requires, “trade union” means an organisation (whether permanent or temporary) which either—

Meaning of trade union and employers' association.

- (a) consists wholly or mainly of workers of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' associations ; or
- (b) consists wholly or mainly of—
  - (i) constituent or affiliated organisations which fulfil the conditions specified in paragraph (a) above (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or
  - (ii) representatives of such constituent or affiliated organisations ;

and in either case is an organisation whose principal purposes include the regulation of relations between workers and employers or between workers and employers' associations, or include the regulation of relations between its constituent or affiliated organisations.

**(2)** In this Act, except so far as the context otherwise requires, “employers' association” means an organisation (whether permanent or temporary) which either—

- (a) consists wholly or mainly of employers or individual proprietors of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between employers of that description or those descriptions and workers or trade unions ; or

(b) consists wholly or mainly of—

(i) constituent or affiliated organisations which fulfil the conditions specified in paragraph (a) above (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or

(ii) representatives of such constituent or affiliated organisations ;

and in either case is an organisation whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions, or include the regulation of relations between its constituent or affiliated organisations.

Meaning of  
trade dispute.

**29.—**(1) In this Act “ trade dispute ” means a dispute between employers and workers, or between workers and workers, which is connected with one or more of the following, that is to say—

- (a) terms and conditions of employment, or the physical conditions in which any workers are required to work ;
- (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers ;
- (c) allocation of work or the duties of employment as between workers or groups of workers ;
- (d) matters of discipline ;
- (e) the membership or non-membership of a trade union on the part of a worker ;
- (f) facilities for officials of trade unions ; and
- (g) machinery for negotiation or consultation, and other procedures, relating to any of the foregoing matters, including the recognition by employers or employers’ associations of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.

(2) A dispute between a Minister of the Crown and any workers shall, notwithstanding that he is not the employer of those workers, be treated for the purposes of this Act as a dispute between employer and those workers if the dispute relates—

- (a) to matters which have been referred for consideration by a joint body on which, by virtue of any provision made by or under any enactment, that Minister is represented ; or

(b) to matters which cannot be settled without that Minister exercising a power conferred on him by or under an enactment.

(3) There is a trade dispute for the purposes of this Act even though it relates to matters occurring outside Great Britain, so long as the person or persons whose actions in Great Britain are said to be in contemplation or furtherance of a trade dispute relating to matters occurring outside Great Britain are likely to be affected in respect of one or more of the matters specified in subsection (1) of this section by the outcome of that dispute.

(4) A dispute to which a trade union or employers' association is a party shall be treated for the purposes of this Act as a dispute to which workers or, as the case may be, employers are parties.

(5) An act, threat or demand done or made by one person or organisation against another which, if resisted, would have led to a trade dispute with that other, shall, notwithstanding that because that other submits to the act or threat or accedes to the demand no dispute arises, be treated for the purposes of this Act as being done or made in contemplation of a trade dispute with that other.

(6) In this section—

“employment” includes any relationship whereby one person personally does work or performs services for another ;

“worker”, in relation to a dispute to which an employer is a party, includes any worker even if not employed by that employer.

(7) In the Conspiracy and Protection of Property Act 1875 1875 c. 86. “trade dispute” has the same meaning as in this Act.

**30.—(1)** In this Act, except so far as the context otherwise requires,—

General provisions as to interpretation.

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

“collective agreement” means any agreement or arrangement made by or on behalf of one or more trade unions and one or more employers or employers' associations and relating to one or more of the matters mentioned in section 29(1) above ;

“contract of employment” means a contract of service or of apprenticeship, whether it is express or implied and (if it is express) whether it is oral or in writing ;

“dismissal procedures agreement” means an agreement in writing with respect to procedures relating to dismissal made by or on behalf of one or more independent trade unions and one or more employers or employers’ associations ;

“employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment, otherwise than in police service ;

“employers’ association” includes a combination of employers and employers’ associations ;

“independent trade union” means a trade union which—

(a) is not under the domination or control of an employer or a group of employers or of one or more employers’ associations ; and

(b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control ;

“individual proprietor” means an individual who is the owner of an undertaking ;

1971 c. 72.

“1971 Act” means the Industrial Relations Act 1971 ;

“official”, in relation to a trade union, means any person who is an officer of the union or of a branch or section of the union or who (not being such an officer) is a person elected or appointed in accordance with the rules of the union to be a representative of its members or of some of them, including any person so elected or appointed who is an employee of the same employer as the members, or one or more of the members, whom he is to represent ;

“police service” means service—

(a) in England and Wales as a member of a police force or as a special constable ;

1967 c. 77.

(b) as a constable within the meaning of the Police (Scotland) Act 1967 ;

(c) as a member of any constabulary maintained by virtue of any enactment ; or

(d) in any other capacity by virtue of which a person has the powers or privileges of a constable ;

“position”, in relation to an employee, means the following matters taken as a whole, that is to say, his status as an employee, the nature of his work and his terms and conditions of employment ;

“Registrar” has the meaning assigned to it by section 8(1) above;

“special register body” means an organisation whose name was immediately before the commencement of sections 2 and 3 above entered in the special register maintained under section 84 of the 1971 Act and which for the time being is a company registered under the Companies Act 1948 or is incorporated by 1948 c. 38. charter or letters patent;

“tort”, as respects Scotland, means any wrongful or negligent act giving rise to liability in reparation, and cognate expressions shall be construed accordingly;

“union membership agreement” means an agreement or arrangement which—

(a) is made by or on behalf of, or otherwise exists between, one or more independent trade unions and one or more employers or employers’ associations; and

(b) relates to employees of an identifiable class; and

(c) has the effect of requiring the terms and conditions of employment of every employee of that class to include a condition that he must be or become a member of the union or one of the unions which is or are parties to the agreement or arrangement or of another appropriate independent trade union;

“worker” (subject to the following provisions of this section) means an individual regarded in whichever (if any) of the following capacities is applicable to him, that is to say, as a person who works or normally works or seeks to work—

(a) under a contract of employment; or

(b) under any other contract (whether express or implied, and, if express, whether oral or in writing) whereby he undertakes to do or perform personally any work or services for another party to the contract who is not a professional client of his; or

(c) in employment under or for the purposes of a government department (otherwise than as a member of the naval, military or air forces of the Crown or of any women’s service administered by the Defence Council) in so far as any such employment does not fall within paragraph (a) or (b) above,

otherwise than in police service.

(2) Without prejudice to the generality of the definitions in subsection (1) of this section, in this Act—

- 1946 c. 81. (a) “worker” includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person providing general medical services, pharmaceutical services, general dental services or general ophthalmic services in accordance with arrangements made by an Area Health Authority or Family Practitioner Committee under section 33, section 38, section 40 or section 41 of the National Health Service Act 1946 or by a Health Board under section 34, section 39, section 40 or section 42 of the National Health Service (Scotland) Act 1947; and
- 1947 c. 27. (b) “employer” includes any Area Health Authority, Family Practitioner Committee or Health Board in accordance with whose arrangements a person provides or has provided or normally provides or seeks to provide any such service as aforesaid.

(3) Subject to subsection (4) below, in this Act “successor”, in relation to the employer of an employee, means a person who, in consequence of a change occurring (whether by virtue of a sale or other disposition or by operation of law) in the ownership of the undertaking or of part of the undertaking for the purposes of which the employee was employed, has become the owner of that undertaking or of that part of it, as the case may be.

(4) Subsection (3) above shall have effect (subject to the necessary modifications) in relation to a case where—

- (a) the person by whom an undertaking or part of an undertaking is owned immediately before a change is one of the persons by whom (whether as partners, trustees or otherwise) it is owned immediately after the change, or
- (b) the persons by whom an undertaking or part of an undertaking is owned immediately before a change (whether as partners, trustees or otherwise) include the persons by whom, or include one or more of the persons by whom, it is owned immediately after the change,

as that subsection has effect where the previous owner and the new owner are wholly different persons; and any reference in this Act to a successor of an employer shall be construed accordingly.

(5) For the purposes of this Act any two employers are to be treated as associated 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; and in this Act "associated employer" shall be construed accordingly.

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

(7) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

31.—(1) This Act may be cited as the Trade Union and Labour Relations Act 1974.

Short title, commencement and extent.

(2) This Act, except as provided by section 1(3) above and except sections 21 to 23 above, shall come into operation on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be so appointed for different purposes.

(3) Any reference in this Act to the commencement of any provision of this Act shall be construed as a reference to the day appointed under this section for the coming into operation of that provision.

(4) An order made under this section may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with the provisions of this Act which are thereby brought (wholly or in part) into operation, including such adaptations of those provisions or of any provision of this Act then in force as appear to the Secretary of State to be necessary or expedient in consequence of the partial operation of this Act (whether before, on or after the day appointed by the order).

(5) The following provisions of this Act shall extend to Northern Ireland, that is to say, sections 4 and 19 and any provision of Schedule 3 or 5 to this Act which amends or repeals any provision of the House of Commons Disqualification Act 1957, the Trade Union (Amalgamations, etc.) Act (Northern Ireland) 1965, the Insurance Companies Act (Northern Ireland) 1968, the Merchant Shipping Act 1970 or the Insurance Companies Amendment Act 1973 or repeals any provision of the 1971 Act which extends to Northern Ireland, but except as aforesaid this Act shall not extend there.

1957 c. 20.  
1965 c. 2 (N.I.).  
1968 c. 6 (N.I.).  
1970 c. 36.  
1973 c. 58.

## SCHEDULES

Section 1.

## SCHEDULE 1

1971 c. 72.

## RE-ENACTED PROVISIONS OF INDUSTRIAL RELATIONS ACT 1971

NOTE: The cross heading in square brackets at the beginning of each paragraph of this Schedule indicates the provision of the 1971 Act which is re-enacted, with or without amendments, in that paragraph.

## PART I

## INTRODUCTORY

*Code of Practice*

## [Section 2]

1.—(1) It shall be the duty of the Secretary of State to maintain a code of practice, containing such practical guidance as would be helpful for the purpose of promoting good industrial relations.

(2) The last code of practice brought into effect under Part I of the Industrial Relations Act 1971 shall remain in effect for the purpose of this Part of this Schedule unless and until revised as hereinafter provided.

(3) The Secretary of State may from time to time revise the whole or any part of a code of practice which has been brought into effect under this Part of this Schedule.

(4) In preparing any proposed revision of that code the Secretary of State shall have regard to—

- (a) the need for those who manage undertakings to accept the primary responsibility for the promotion of good industrial relations, and
- (b) the need for providing practical guidance with respect to disclosure of information by employers, and with respect to the establishment and maintenance of effective means of negotiation, consultation and communication at all levels between those who manage undertakings and the workers employed in them.

*Revisions of Code of Practice*

## [Section 3]

2.—(1) Where the Secretary of State proposes to revise the whole or part of the code of practice (in the form in which, whether as originally approved or as previously revised, the code or that part of it has effect for the time being) he shall consult with the Trades Union Congress and the Confederation of British Industry and prepare a draft of the revised code, or that part of it, as the case may be, and shall transmit a copy of the draft to each of them for their consideration and advice.

(2) The Secretary of State shall take account of any advice given to him by the Trades Union Congress or the Confederation of British



SCH. 1

Industry with respect to a draft prepared under sub-paragraph (1) above and shall arrange for any such advice to be published in such manner as he may consider appropriate; and, if the Secretary of State determines to proceed with the draft, he shall lay the draft, or a modified draft, before both Houses of Parliament.

(3) If the draft laid under sub-paragraph (2) above is approved by a resolution of each House of Parliament, the Secretary of State shall issue the revised code, or part of the code as revised, as the case may be, in the form of the draft.

(4) On issuing any document under this paragraph (whether it is the code of practice as originally approved or a revised code or part of a revised code) the Secretary of State shall make by statutory instrument an order specifying the date on which the document is to be brought into effect.

*Use of code in proceedings under this Act*

[Section 4]

3.—A failure on the part of any person to observe any provision of a code of practice which is for the time being in force under this Part of this Schedule shall not of itself render him liable to any proceedings; but in any proceedings before an industrial tribunal under this Act—

- (a) any such code of practice shall be admissible in evidence, and
- (b) any provision of such a code of practice which appears to the tribunal to be relevant to any question arising in the proceedings shall be taken into account by the tribunal in determining that question.

PART II

UNFAIR DISMISSAL

*Right of employee not to be unfairly dismissed*

[Section 22]

4.—(1) In every employment to which this paragraph applies every employee shall have the right not to be unfairly dismissed by his employer, and the remedy of an employee so dismissed for breach of that right shall be by way of complaint to an industrial tribunal under Part III of this Schedule, and not otherwise.

(2) This paragraph applies to every employment except in so far as its application is excluded by or under any provision of this Schedule.

*Meaning of "dismissal"*

[Section 23]

5.—(1) In this Schedule "dismissal" and "dismiss" shall be construed in accordance with the following provisions of this paragraph.

(2) Subject to sub-paragraph (3) below, an employee shall be treated for the purposes of this Act as dismissed by his employer, if, but only if,—

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- (a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice, or
- (b) where under that contract he is employed for a fixed term, that term expires without being renewed under the same contract, or
- (c) the employee terminates that contract, with or without notice, in circumstances such that he is entitled to terminate it without notice by reason of the employer's conduct.

(3) Where an employer gives notice to an employee to terminate his contract of employment and, at a time within the obligatory period of that notice, the employee gives notice in writing to the employer to terminate the contract of employment on a date earlier than the date on which the employer's notice is due to expire, the employee shall for the purposes of this Schedule be taken to be dismissed by his employer, and the reasons for the dismissal shall be taken to be the reasons for which the employer's notice is given.

(4) For the purposes of sub-paragraph (3) above—

- (a) if the actual period of the employer's notice (that is to say, the period beginning at the time when the notice is given and ending with the time when it expires) is equal to the minimum period which (whether by virtue of any enactment or otherwise) is required to be given by the employer to terminate the contract of employment, "the obligatory period", in relation to that notice, means the actual period of the notice ;
- (b) in any other case, "the obligatory period", in relation to an employer's notice, means that period which, being equal to the minimum period referred to in sub-paragraph (a) above, expires at the time when the employer's notice expires.

(5) In this Schedule "the effective date of termination"—

- (a) in relation to an employee whose contract of employment is terminated by notice, whether given by his employer or by the employee, means the date on which that notice expires ;
- (b) in relation to an employee whose contract of employment is terminated without notice, means the date on which the termination takes effect ; and
- (c) in relation to an employee who is employed under a contract for a fixed term, where that term expires without being renewed under the same contract, means the date on which that term expires.

*Fair and unfair dismissal*

[Section 24]

6.—(1) In determining for the purposes of this Schedule whether the dismissal of an employee was fair or unfair, it shall be for the employer to show—

- (a) what was the reason (or, if there was more than one, the principal reason) for the dismissal, and

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(b) that it was a reason falling within sub-paragraph (2) below, or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which that employee held.

(2) In sub-paragraph (1)(b) above the reference to a reason falling within this sub-paragraph is a reference to a reason which—

- (a) related to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do, or
- (b) related to the conduct of the employee, or
- (c) was that the employee was redundant, or
- (d) was that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.

(3) Where the employer has fulfilled the requirements of sub-paragraph (1) above, then, subject to paragraphs 7 and 8 below, the question whether the dismissal was fair or unfair shall be determined in accordance with the following provisions of this paragraph.

(4) For the purposes of this Schedule the dismissal of an employee by an employer shall be regarded as having been unfair if the reason for it (or, if more than one, the principal reason) was that the employee—

- (a) was, or proposed to become, a member of an independent trade union ;
- (b) had taken, or proposed to take, part at any appropriate time in the activities of an independent trade union ; or
- (c) had refused, or proposed to refuse, to become or remain a member of a trade union which was not an independent trade union.

(5) Dismissal of an employee by an employer shall be regarded as fair for the purposes of this Schedule if—

- (a) it is the practice, in accordance with a union membership agreement, for all the employees of that employer or all employees of the same class as the dismissed employee to belong to a specified independent trade union, or to one of a number of specified independent trade unions ; and
- (b) the reason for the dismissal was that the employee was not a member of the specified union or one of the specified unions, or had refused or proposed to refuse to become or remain a member of that union or one of those unions ;

unless the employee genuinely objects on grounds of religious belief to being a member of any trade union whatsoever or on any reasonable grounds to being a member of a particular trade union, in which case the dismissal shall be regarded as unfair.

(6) Any reason by virtue of which a dismissal is to be regarded as unfair in consequence of sub-paragraph (4) or (5) above is hereafter in this Schedule referred to as an inadmissible reason.

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(7) Where the reason or principal reason for the dismissal of an employee was that he was redundant, but it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by him and who have not been dismissed by the employer, and either—

(a) that the reason (or, if more than one, the principal reason) for which he was selected for dismissal was an inadmissible reason ; or

(b) that he was selected for dismissal in contravention of a customary arrangement or agreed procedure relating to redundancy and there were no special reasons justifying a departure from that arrangement or procedure in his case,

then, for the purposes of this Schedule the dismissal shall be regarded as unfair.

(8) Subject to sub-paragraphs (4) to (7) above, the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether the employer can satisfy the tribunal that in the circumstances (having regard to equity and the substantial merits of the case) he acted reasonably in treating it as a sufficient reason for dismissing the employee.

(9) In this paragraph, in relation to an employee—

(a) “capability” means capability assessed by reference to skill, aptitude, health or any other physical or mental quality ;

(b) “qualifications” means any degree, diploma or other academic, technical or professional qualification relevant to the position which the employee held ; and

(c) any reference to redundancy or to being redundant shall be construed as a reference to the existence of one or other of the facts specified in paragraphs (a) and (b) of section 1(2) of the Redundancy Payments Act 1965.

1965 c. 62.

*Dismissal in connection with a lock-out*

[Section 25]

7.—(1) The dismissal of an employee by way of a lock-out (whether the lock-out extends to all the employees of the employer or only to some of them, and whether the dismissal occurs at the beginning of the lock-out or during the course of it) shall not be regarded as unfair if the employee is offered re-engagement as from the date of resumption of work.

(2) Where an employee who has been so dismissed, and has not been offered re-engagement as from the date of resumption of work, claims that he was unfairly dismissed by his employer, the provisions of paragraph 6 above shall apply as if in that paragraph, for any reference to the reason or principal reason for which the employee was dismissed by his employer, there were substituted a reference to the reason or principal reason for which he was not offered re-engagement as from that date.

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(3) In this paragraph any reference to an offer of re-engagement, in relation to an employee, is a reference to an offer (made either by the original employer or by a successor of that employer or by an associated employer) to re-engage that employee, either in the position which he held immediately before the effective date of termination or in a different position which would be reasonably suitable to him.

(4) In this paragraph—

- (a) “the date of resumption of work” means the date as from which, at or after the termination of the lock-out, the other comparable employees of the original employer, or a majority of those employees, were offered re-engagement, and
- (b) “the original employer”, in relation to an employee, means the employer who dismissed him ;

and in this sub-paragraph “comparable employees”, in relation to an employee, means such of the employees of the original employer to whom the lock-out extended as, immediately before the effective date of termination, held positions similar to that held by that employee.

*Dismissal in connection with a strike or other industrial action*

[Section 26]

8.—(1) The provisions of this paragraph shall have effect in relation to an employee who claims that he has been unfairly dismissed by his employer, where on the date of dismissal he was taking part in a strike or other industrial action.

(2) If the reason or principal reason for the dismissal was that the employee took part in the strike or other industrial action, the dismissal shall not be regarded as unfair unless it is shown—

- (a) that one or more employees of the same employer (in this paragraph referred to as “the original employer”), who also took part in that action, were not dismissed for taking part in it, or
- (b) that one or more such employees, who were dismissed for taking part in it, were offered re-engagement on the termination of the industrial action and that the employee was not offered such re-engagement,

and that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal or not offered re-engagement was an inadmissible reason.

(3) In this paragraph any reference to the date of dismissal—

- (a) where the employee’s contract of employment was terminated by notice, whether given by his employer or by him, is a reference to the date on which that notice was given, and
- (b) in any other case, is a reference to the effective date of termination ;

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and any reference to an offer of re-engagement, in relation to an employee, is a reference to an offer (made either by the original employer or by a successor of that employer or by an associated employer) to re-engage that employee, either in the position which he held immediately before the date of dismissal or in a different position which would be reasonably suitable to him.

*Excluded classes of employment*

[Section 27]

9.—(1) Paragraph 4 above does not apply to any of the following, that is to say,—

- (a) any employment in an undertaking in which immediately before the effective date of termination there were in the aggregate (including the dismissed employee) less than four employees who had been continuously employed for a period of not less than thirteen weeks, whether they are, or had been, all employed at the same place or are, or had been, employed at different places ;
- (b) any employment where the employer is the husband or wife or a close relative of the employee ;
- (c) any employment as a registered dock worker, as defined by any scheme for the time being in force under the Dock Workers (Regulation of Employment) Act 1946, not being employment by virtue of which the employee is wholly or mainly engaged in work which is not dock work as defined by the scheme ;
- (d) any employment as master or as a member of the crew of a fishing vessel, where the employee is not remunerated otherwise than by a share in the profits or gross earnings of the vessel ;
- (e) any employment as a teacher to whom section 85 of the Education (Scotland) Act 1962 (dismissal of teachers) applies ;
- (f) any employment under a contract which normally involves employment for less than twenty-one hours weekly.

1946 c. 22.

1962 c. 47.

(2) Paragraph 4 above does not apply to any employment where under his contract of employment the employee ordinarily works outside Great Britain.

(3) For the purposes of sub-paragraph (2) above a person employed to work on board a ship registered in the United Kingdom (not being a ship registered at a port outside Great Britain) shall, unless—

- (a) the employment is wholly outside Great Britain, or
- (b) he is not ordinarily resident in Great Britain,

be regarded as a person who under his contract ordinarily works in Great Britain.

(4) In this paragraph “close relative”, in relation to a person, means that person’s father, mother, grandfather, grandmother, step-father, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister.

(5) The foregoing provisions of this paragraph shall have effect subject to any order made under paragraph 11 below.

*Qualifying period and upper age limit*

[Section 28]

10. Subject to paragraph 11 below, paragraph 4 above does not apply to the dismissal of an employee from any employment if the employee—

- (a) was not continuously employed for a period of not less than 26 weeks ending with the effective date of termination, or
- (b) on or before the effective date of termination attained the age which, in the undertaking in which he was employed, was the normal retiring age for an employee holding the position which he held, or, if a man, attained the age of sixty-five, or, if a woman, attained the age of sixty;

but this paragraph shall have effect in a case where the effective date of termination falls within the period of six months beginning with the commencement of this Schedule as if the reference in sub-paragraph (a) to 26 weeks were a reference to 52 weeks.

*Supplementary provisions relating to paragraphs 9 and 10*

[Section 29]

11.—(1) Paragraphs 9(1)(a) and 10 above shall not apply to the dismissal of an employee if it is shown that the reason (or, if more than one, the principal reason) for the dismissal was an inadmissible reason.

(2) The Secretary of State may by order made by statutory instrument add to or vary any of the provisions of paragraphs 9 and 10 above or exclude the operation of any of those provisions.

(3) No order shall be made under this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

*Exclusion of certain contracts for a fixed term*

[Section 30]

12. Paragraph 4 above does not apply—

- (a) to dismissal from employment under a contract for a fixed term of two years or more, where the contract was made before 28th February 1972 and is not a contract of apprenticeship, and the dismissal consists only of the expiry of that term without its being renewed, or
- (b) to dismissal from employment under a contract for a fixed term of two years or more, where the dismissal consists only of the expiry of that term without its being renewed, if before the term so expires the employee has agreed in writing to exclude any claim in respect of rights under that paragraph in relation to that contract.

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*Exclusion in respect of dismissal procedures agreement*

## [Section 31]

13.—(1) An application may be made jointly to the Secretary of State by all the parties to a dismissal procedures agreement to make an order designating that agreement for the purposes of this paragraph.

(2) On any such application the Secretary of State may make such an order if he is satisfied—

- (a) that every trade union which is a party to the dismissal procedures agreement is an independent trade union ;
- (b) that the agreement provides for procedures to be followed in cases where an employee claims that he has been, or is in the course of being, unfairly dismissed ;
- (c) that those procedures are available without discrimination to all employees falling within any description to which the agreement applies ;
- (d) that the remedies provided by the agreement in respect of unfair dismissal are on the whole as beneficial as (but not necessarily identical with) those provided in respect of unfair dismissal by this Schedule ;
- (e) that the procedures provided by the agreement include a right to arbitration or adjudication by an independent referee, or by a tribunal or other independent body, in cases where (by reason of an equality of votes or for any other reason) a decision cannot otherwise be reached ; and
- (f) that the provisions of the agreement are such that it can be determined with reasonable certainty whether a particular employee is one to whom the agreement applies or not.

(3) Where a dismissal procedures agreement is designated by an order under this paragraph which is for the time being in force, the provisions of that agreement relating to dismissal shall have effect in substitution for any rights under paragraph 4 above ; and accordingly that paragraph shall not apply to the dismissal of an employee from any employment if it is employment to which, and he is an employee to whom, those provisions of the agreement apply.

*Revocation of exclusion under paragraph 13*

## [Section 32]

14.—(1) At any time when an order under paragraph 13 above is in force, any of the parties to the dismissal procedures agreement to which the order relates may apply to the Secretary of State for the order to be revoked.

(2) If on any such application the Secretary of State is satisfied either—

- (a) that it is the desire of all the parties to the dismissal procedures agreement that the order should be revoked, or
- (b) that the agreement has ceased to fulfil all the conditions specified in paragraph 13(2) above,

the Secretary of State shall revoke the order by a further order made under this paragraph.



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(3) Any order made under this paragraph may contain such transitional provisions as appear to the Secretary of State to be appropriate in the circumstances, and, in particular, may direct—

- (a) that, notwithstanding paragraph 13(3) above, an employee shall not be excluded from his rights under paragraph 4 above where the effective date of termination falls within a transitional period which is specified in the order and is a period ending with the date on which the order under this paragraph takes effect and shall have an extended time for presenting a complaint under Part III of this Schedule in respect of a dismissal where the effective date of termination falls within that period, and
- (b) that in determining any complaint of unfair dismissal presented by an employee to whom the dismissal procedures agreement applies, where the effective date of termination falls within that transitional period, an industrial tribunal shall have regard to such considerations (in addition to those specified in Part III of this Schedule) as may be specified in the order.

*Pressure on employer to dismiss unfairly*

[Section 33]

15. In determining, for the purposes of this Part of this Schedule any question as to the reason, or principal reason, for which an employee was dismissed or any question whether the reason or principal reason for which an employee was dismissed was a reason fulfilling the requirements of paragraph 6(1)(b) above or whether the employer acted reasonably in treating it as a sufficient reason for dismissing him,—

- (a) no account shall be taken of any pressure which, by calling, organising, procuring or financing a strike or other industrial action, or threatening to do so, was exercised on the employer to dismiss the employee, and
- (b) any such question shall be determined as if no such pressure had been exercised.

PART III

JURISDICTION AND PROCEDURE OF INDUSTRIAL TRIBUNALS

*Extended scope of industrial tribunals*

[Section 100]

16.—(1) Tribunals established under section 12 of the Industrial Training Act 1964 shall, by the name of industrial tribunals, continue to exercise the jurisdiction conferred on them by or under that Act, the Redundancy Payments Act 1965, the Docks and Harbours Act 1966, the Selective Employment Payments Act 1966, the Equal Pay Act 1970 and the Contracts of Employment Act 1972 and also the jurisdiction conferred on them by or under this Act.

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*Complaint to industrial tribunal of unfair dismissal**[Section 106]*

17.—(1) A complaint may be presented to an industrial tribunal against an employer by any person (in this Part and Part IV of this Schedule referred to as the complainant) that he was unfairly dismissed by the employer or by a person acting on the employer's behalf.

(2) Where on a complaint under this paragraph the industrial tribunal—

- (a) finds that the grounds of the complaint are well-founded, and
- (b) considers that it would be practicable and in accordance with equity, for the complainant to be reinstated or re-engaged by the employer or to be engaged by a successor of the employer or by an associated employer,

the tribunal shall make a recommendation to that effect, stating the terms on which it considers that it would be reasonable for the complainant to be so reinstated, re-engaged or engaged.

(3) Where on such a complaint the industrial tribunal finds that the grounds of the complaint are well-founded, but—

- (a) the tribunal does not make such a recommendation as aforesaid, or
- (b) the tribunal makes such a recommendation, and (for whatever reason) the recommendation is not complied with,

the tribunal shall make an award of compensation, to be paid by the employer to the complainant, in respect of the dismissal.

*National security**[Section 159]*

18.—(1) If on a complaint under paragraph 17 above it is shown that the action to which the complaint relates was taken for the purpose of safeguarding national security, the industrial tribunal shall dismiss the complaint.

(2) A certificate purporting to be signed by or on behalf of a Minister of the Crown, and certifying—

- (a) that action specified in the certificate was taken for the purpose of safeguarding national security, or
- (b) that a particular request for information could not be complied with except by disclosing information the disclosure of which would have been against the interests of national security,

shall for the purposes of this Schedule be conclusive evidence of the fact so certified.

*General principles as to assessment of compensation*

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[Section 116]

19.—(1) Where in any proceedings on a complaint under paragraph 17 above an industrial tribunal makes an award of compensation to be paid by a party to the proceedings (in this paragraph referred to as the party in default) to another party (in this paragraph referred to as the aggrieved party), the amount of the compensation shall, subject to paragraph 20 below, be such amount as the tribunal considers just and equitable in all the circumstances, having regard to the loss sustained by the aggrieved party in consequence of the matters to which the complaint relates, in so far as that loss was attributable to action taken by or on behalf of the party in default.

(2) The said loss shall be taken to include—

- (a) any expenses reasonably incurred by the aggrieved party in consequence of the matters to which the complaint relates, and
- (b) loss of any benefit which he might reasonably be expected to have had but for those matters,

subject, however, to the application of the same rule concerning the duty of a person to mitigate his loss as applies in relation to damages recoverable under the common law of England and Wales or of Scotland, as the case may be.

(3) Where the industrial tribunal finds that the matters to which the complaint relates were to any extent caused or contributed to by any action of the aggrieved party in connection with those matters, the tribunal shall reduce its assessment of his loss to such extent as, having regard to that finding, the tribunal considers just and equitable.

(4) Where, on a complaint under paragraph 17 above, the industrial tribunal has made a recommendation in accordance with subparagraph (2) of that paragraph, and that recommendation is not complied with, then—

- (a) if the tribunal finds that the reason for which it was not complied with was that the aggrieved party refused an offer of re-instatement, re-engagement or engagement on the terms stated in the recommendation, and the tribunal considers that he acted unreasonably in doing so, the tribunal (without prejudice to the generality of the rule mentioned in sub-paragraph (2) above) shall reduce the assessment of his loss, or
- (b) if the tribunal finds that the reason for which the recommendation was not complied with was that the employer in question refused or failed to make such an offer, and the tribunal considers that he acted unreasonably in doing so, the tribunal shall increase that assessment,

to such extent (in either case) as in the circumstances the tribunal considers just and equitable.

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(5) In determining, on a complaint under paragraph 17 above, how far any loss sustained by the aggrieved party was attributable to action taken by or on behalf of the employer, no account shall be taken of any pressure which was exercised on the employer as mentioned in paragraph 15(a) above, and that question shall be determined as if no such pressure had been exercised.

*Limit on compensation*

[Section 118]

20.—(1) The amount of compensation which is awarded to a person under paragraph 17 above shall not exceed—

- (a) the amount which, in his case, represents 104 weeks' pay, or
- (b) £5,200 (that is to say,  $104 \times £50$ ),

whichever is the less.

(2) The Secretary of State shall make provision by regulations for calculating the amount of a week's pay for the purposes of this paragraph.

(3) The Secretary of State may by order made by statutory instrument provide that, subject to such transitional provisions (if any) as may be contained in the order, sub-paragraph (1) above shall have effect as if, for the references to £5,200 and £50, there were substituted references to such larger sums as may be specified in the order.

(4) No order shall be made under this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

*Regulations as to tribunal procedure*

[Schedule 6, paragraphs 1 to 5 and 11]

21.—(1) Regulations (in this Part of this Schedule referred to as "the regulations") may make such provision as appears to the Secretary of State to be necessary or expedient with respect to proceedings before industrial tribunals.

(2) The regulations may in particular include provision—

- (a) for determining by which tribunal any appeal, question or complaint is to be determined ;
- (b) for treating the Secretary of State (either generally or in such circumstances as may be prescribed by the regulations) as a party to any proceedings before an industrial tribunal, where he would not otherwise be a party to them, and entitling him to appear and to be heard accordingly.
- (c) for requiring persons to attend to give evidence and produce documents, and for authorising the administration of oaths to witnesses ;
- (d) for granting to any person such discovery or inspection of documents or right to further particulars as might be granted

by a county court in England and Wales or, in Scotland, for granting to any such person such recovery or inspection of documents as might be granted by the sheriff ;

- (e) for prescribing the procedure to be followed on any appeal, reference or complaint or other proceedings before an industrial tribunal, including provisions as to the persons entitled to appear and to be heard on behalf of parties to such proceedings, and provisions for enabling an industrial tribunal to review its decisions, and revoke or vary its orders and awards, in such circumstances as may be determined in accordance with the regulations ;
- (f) for the appointment of one or more assessors for the purposes of any proceedings before an industrial tribunal, where the proceedings are brought under an enactment which provides for one or more assessors to be appointed ;
- (g) for the award of costs or expenses, including any allowances payable under section 12(3) of the Industrial Training Act 1964 c. 16, 1964 other than allowances payable to members of industrial tribunals or assessors ;
- (h) for taxing or otherwise settling any such costs or expenses (and, in particular, in England and Wales, for enabling such costs to be taxed in the county court) ; and
- (i) for the registration and proof of decisions, orders and awards of industrial tribunals.

(3) In relation to proceedings on complaints under paragraph 17 above the regulations shall include provision—

- (a) for requiring a copy of any such complaint, and a copy of any notice relating to it which is lodged by or on behalf of the employer against whom the complaint is made, to be sent to a conciliation officer ;
- (b) for securing that the complainant and the employer against whom the complaint is made are notified that the services of a conciliation officer are available to them ; and
- (c) for postponing the hearing of any such complaint for such period as may be determined in accordance with the regulations for the purpose of giving an opportunity for the complaint to be settled by way of conciliation and withdrawn.

(4) An industrial tribunal shall not consider a complaint under paragraph 17 above unless it is presented to the tribunal before the end of the period of three months beginning with the effective date of termination or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

(5) The regulations may enable an industrial tribunal to sit in private for the purpose of hearing evidence which in the opinion of the tribunal relates to matters of such a nature that it would be against the interests of national security to allow the evidence

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- (a) information which he could not disclose without contravening a prohibition imposed by or under any enactment; or
- (b) any information which has been communicated to him in confidence, or which he has otherwise obtained in consequence of the confidence reposed in him by another person; or
- (c) information the disclosure of which would, for reasons other than its effect on negotiations with respect to any of the matters mentioned in section 29(1) above, be seriously prejudicial to the interests of any undertaking of his or any undertaking in which he works.

(6) Any person who without reasonable excuse fails to comply with any requirement imposed by the regulations by virtue of sub-paragraph (2)(c) above or any requirement with respect to the discovery, recovery or inspection of documents so imposed by virtue of sub-paragraph (2)(d) above shall be liable on summary conviction to a fine not exceeding £100.

*Exclusion of Arbitration Act 1950*

[Schedule 6, paragraph 7]

1950 c. 27.

22. The Arbitration Act 1950 shall not apply to any proceedings before an industrial tribunal.

*Presumption as to dismissal for redundancy*

[Schedule 6, paragraph 8]

23. Where in accordance with the regulations an industrial tribunal determines in the same proceedings—

1965 c. 62.

- (a) a question referred to it under Part I of the Redundancy Payments Act 1965, and
  - (b) a complaint presented under paragraph 17 above,
- section 9(2)(b) of that Act (whereby a dismissal is to be presumed, unless the contrary is proved, to have been by reason of redundancy) shall not have effect for the purposes of the proceedings in so far as they relate to the complaint under paragraph 17 above.

*Right of appearance*

[Schedule 6, paragraph 9]

24. Any person may appear before an industrial tribunal in person or be represented by counsel or by a solicitor or by a representative of a trade union or an employers' association or by any other person whom he desires to represent him.

*Recovery of sums awarded*

[Schedule 6, paragraph 10]

25.—(1) Any sum payable in pursuance of a decision of an industrial tribunal in England and Wales which has been registered in accordance with the regulations shall, if a county court so orders,

be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.

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(2) Any order for the payment of any sum made by an industrial tribunal in Scotland may be enforced in like manner as a recorded decree arbitral.

(3) In this paragraph any reference to a decision or order of an industrial tribunal—

- (a) does not include a decision or order which, on being reviewed, has been revoked by the tribunal, and
- (b) in relation to a decision or order which, on being reviewed, has been varied by the tribunal, shall be construed as a reference to the decision or order as so varied.

#### PART IV

#### CONCILIATION OFFICERS, AND MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

##### *Conciliation officers*

##### [Section 146]

26.—(1) The Secretary of State shall appoint conciliation officers to perform the functions specified in the following provisions of this paragraph, subject to the approval of the Minister for the Civil Service as to their numbers and as to their terms and conditions of service.

(2) Where a complaint has been presented to an industrial tribunal by the complainant under paragraph 17 above, and a copy of it has been sent to a conciliation officer, it shall be the duty of the conciliation officer—

- (a) if he is requested to do so by the complainant and by the employer against whom it was presented, or
- (b) if, in the absence of any such request, the conciliation officer considers that he could act under this sub-paragraph with a reasonable prospect of success,

to endeavour to promote a settlement of the complaint without its being determined by an industrial tribunal.

(3) For the purpose of promoting such a settlement, in a case where the complainant has ceased to be employed by the employer against whom the complaint was made,—

- (a) the conciliation officer shall in particular seek to promote the reinstatement or re-engagement of the complainant by the employer, or his engagement by a successor of the employer or by an associated employer, on terms appearing to the conciliation officer to be equitable; but
- (b) where such reinstatement, re-engagement or engagement is not practicable or cannot be agreed between the parties to the complaint,

## SCH. 1

and they desire the conciliation officer to act under this paragraph, he shall seek to promote agreement between them as to a sum by way of compensation to be paid by the employer to the complainant.

(4) Where at any time—

(a) after the complainant has ceased to be employed by an employer, in circumstances where the employee claims that he was unfairly dismissed, but

(b) before any complaint relating to that claim has been presented by the claimant under paragraph 17 above,

a request is made to a conciliation officer (whether by the employer or by the employee) to make his services available to them, the conciliation officer shall act in accordance with sub-paragraph (2) and (3) above as if a complaint had been presented in pursuance of that claim.

(5) Anything communicated to a conciliation officer in connection with the performance of his functions under this paragraph shall not be admissible in evidence in any proceedings before an industrial tribunal, except with the consent of the person who communicated it to that officer.

*Teacher in aided school dismissed on requirement of local education authority*

[Section 148]

27.—(1) Where a teacher in an aided school is dismissed by the governors or managers of the school in pursuance of a requirement of the local education authority under paragraph (a) of the proviso to section 24(2) of the Education Act 1944, Parts II and III of this Schedule shall have effect in relation to the dismissal as if—

1944 c. 31.

(a) the local education authority had at all material times been the teacher's employer, and

(b) the local education authority had dismissed him, and the reason or principal reason for which they did so had been the reason or principal reason for which they required his dismissal.

(2) For the purposes of a complaint under paragraph 17 above as applied by this paragraph, paragraph 19 above shall have effect as if—

(a) in sub-paragraph (4)(b), for the words "the employer in question refused or failed to make such an offer, and the tribunal considers that he acted unreasonably in doing so" there were substituted the words "the local education authority refused or failed to permit the aggrieved party to be re-engaged, and the tribunal considers that they acted unreasonably in doing so", and

(b) in sub-paragraph (5), any reference to the employer were a reference to the local education authority.



## Race Relations Act 1968

SCH. 1

## [Section 149]

28.—(1) Where under the Race Relations Act 1968 a complaint is made to the Secretary of State or the Race Relations Board that an act has been done which is unlawful by virtue of section 3(1) of that Act, or a matter falling to be investigated by that Board raises the question whether any such act has been done, then, if it appears to the Secretary of State or the Board—

(a) that that act is one in respect of which a complaint of unfair dismissal has been presented to an industrial tribunal under paragraph 17 above, or in respect of which a complaint could be so presented (or could have been so presented if the requirements of industrial tribunal regulations relating to it had been complied with), and

(b) that a complaint so presented to an industrial tribunal has not been dismissed by virtue of any provision contained in or made under paragraphs 9 to 13 above or (as the case may be) would not fall or have fallen to be so dismissed,

the Secretary of State or the Board shall not proceed any further under that Act in relation to that act, except to the extent provided by the following provisions of this paragraph.

(2) If, on determining a complaint of unfair dismissal presented under paragraph 17 above, an industrial tribunal has recorded a finding that the dismissal of the claimant was unfair and also that the reason or one of the reasons for the dismissal was the complainant's colour, race or ethnic or national origin, then, sub-paragraph (1) above shall not preclude the Secretary of State or the Race Relations Board—

(a) from proceeding under that Act for the purpose of securing a written assurance against a repetition of that action, in accordance with section 15(3)(b) of that Act or in accordance with paragraph 3 of Schedule 2 or paragraph 2 or 8 of Schedule 3 to that Act, or

(b) from proceeding under that Act (whether by way of bringing proceedings or otherwise) in consequence of forming an opinion or receiving a report that a written assurance so secured has been broken.

(3) The Secretary of State or the Race Relations Board may proceed in accordance with sub-paragraph (2)(a) or (b) above notwithstanding any limitation imposed by the Race Relations Act 1968 as to the time within which anything may be done under that Act.

(4) In this paragraph any reference to the Race Relations Board shall be construed as including references—

(a) to any conciliation committee constituted under the Race Relations Act 1968, and

(b) to any other body of persons to whom a matter could be referred for investigation under Schedule 2 or Schedule 3 to that Act.

## SCH. 1

*Redundancy payments*

## [Section 150]

29.—(1) Regulations may make provision with respect to cases where a complaint of unfair dismissal is presented to an industrial tribunal under paragraph 17 above, and a redundancy payment or an equivalent payment has been paid, or has been or is claimed, in respect of the same dismissal.

1965 c. 62. (2) Any such regulations may make such modifications of the provisions of Part III of this Schedule or of the Redundancy Payments Act 1965, as the Secretary of State may consider appropriate, including—

(a) provisions excluding the right to a redundancy payment or equivalent payment, or requiring any such payment to be repaid, or

(b) provisions requiring a rebate under section 30 of that Act or a sum payable under section 41(2) of that Act to be withheld or reduced, or (where already paid) to be recoverable in whole or in part, and on being so recovered to be paid into the Redundancy Fund,

in such circumstances as may be prescribed by the regulations.

(3) In section 21 of the Redundancy Payments Act 1965 (claims for redundancy payments), at the end of paragraph (c) there shall be added the words “ or

(d) a complaint relating to his dismissal has been presented by the employee under paragraph 17 of Schedule 1 to the Trade Union and Labour Relations Act 1974 ”.

(4) In this paragraph “ equivalent payment ” means any payment which is either—

(a) a payment made or falling to be made as mentioned in paragraph (b) or paragraph (c) of section 30(1) of the Redundancy Payments Act 1965, or

1972 c. 11. (b) a payment in respect of the termination of a person's employment, made in accordance with a scheme under section 1 of the Superannuation Act 1972 or in accordance with any such arrangements as are mentioned in section 41(3) of the Redundancy Payments Act 1965.

(5) No regulations shall be made under this paragraph unless a draft of the regulations has been laid before Parliament and approved by resolution of each House of Parliament.

*Period of continuous employment*

## [Section 151]

1972 c. 53.

30.—(1) The provisions of Schedule 1 to the Contracts of Employment Act 1972 (computation of period of employment), and the provisions of any order for the time being in force under section 10 of that Act in so far as it modifies that Schedule, shall have effect for the purposes of this Act in determining for what period an employee has been continuously employed.

(2) For the purposes of any proceedings under this Schedule a person's employment during any period shall, unless the contrary is shown, be presumed to have been continuous. SCH. 1

(3) Regulations made by the Secretary of State may make provision—

(a) for preserving the continuity of a person's period of employment for the purposes of Schedule 1 to the Contracts of Employment Act 1972, or for the purposes of that Schedule as applied by or under any other enactment specified in the regulations, or 1972 c. 53.

(b) for modifying or excluding the operation of section 24 of the Redundancy Payments Act 1965 (which requires the continuity of the period of employment to be treated as broken for the purposes of that Act where a redundancy payment is paid to an employee and he is subsequently re-engaged), subject to the recovery of any sum which, in accordance with subsection (3) of that section, is treated as payment of a redundancy payment, 1965 c. 62.

in cases where, in consequence of action to which sub-paragraph (4) below applies, a dismissed employee is re-engaged by his employer or is engaged by a successor of that employer or by an associated employer.

(4) This sub-paragraph applies to any action taken in relation to the dismissal of an employee which consists—

(a) of the presentation by him of a complaint under paragraph 17 above, or

(b) of his making a claim in accordance with a dismissal procedures agreement designated by an order under paragraph 13 above, or

(c) of any action taken by a conciliation officer under paragraph 26(4) above.

*Nominations by members of trade unions*

[Section 155]

31.—(1) Regulations may make provision—

(a) for enabling members of trade unions who are not under sixteen years of age to nominate a person or persons to become entitled, on the death of the person making the nomination, to the whole or part of any money payable on his death out of the funds of the trade union of which he is a member ; and

(b) for enabling any money payable out of the funds of a trade union on the death of a member of the trade union, to an amount not exceeding £500, to be paid or distributed on his death (whether in accordance with such a nomination or otherwise) without letters of administration, probate of any will or confirmation.

SCH. 1

(2) Any regulations made in accordance with sub-paragraph (1)(a) above—

- (a) may include provision as to the manner in which nominations may be made and as to the manner in which nominations may be varied or revoked, and
- (b) may provide that, subject to such exceptions as may be prescribed, no nomination made by a member of a trade union shall be valid if at the date of the nomination the person nominated is an officer or employee of the trade union or is otherwise connected with the trade union in such manner as may be prescribed by the regulations.

(3) Any regulations under this section may include such incidental, transitional or supplementary provisions as the Secretary of State may consider appropriate and, in particular, any such regulations made in accordance with sub-paragraph (1)(a) above may include provision for securing, to such extent and subject to such conditions as may be prescribed in the regulations, that nominations made under the Trade Union Act Amendment Act 1876 shall have effect as if they have been made under the regulations and may be varied or revoked accordingly.

1876 c. 22.

(4) The Secretary of State may by order made by statutory instrument direct that, in relation to deaths occurring after the end of the period of one month beginning with the date on which the order comes into force, sub-paragraph (1)(b) above shall have effect as if, for the reference to £500, there were substituted a reference to such higher amount as may be specified in the order.

(5) No order shall be made under sub-paragraph (4) above unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

*Restrictions on contracting out*

[Section 161]

32.—(1) Except as provided by sub-paragraph (2) below, any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—

- (a) to exclude or limit the operation of any provision of this Act; or
- (b) to preclude any person from presenting a complaint to or bringing any proceedings before an industrial tribunal under this Act.

(2) Sub-paragraph (1) above shall not apply—

- (a) to any union membership agreement;
- (b) to any provision of an agreement relating to dismissal from employment such as is mentioned in paragraph 12(b) above;

- (c) to any provision in a dismissal procedures agreement excluding rights under paragraph 4 above if that provision is not to have effect unless an order under paragraph 13 above is for the time being in force in respect of it ;
- (d) to any agreement to refrain from presenting a complaint under paragraph 17 above, where in compliance with a request under paragraph 26(4) above a conciliation officer has taken action in accordance with that sub-paragraph ;
- (e) to any agreement to refrain from proceeding with a complaint presented under paragraph 17 above where a conciliation officer has taken action in accordance with paragraph 26(2) and (3) above.
- SCH. 1

*Employment under the Crown*

[Section 162]

33.—(1) Subject to the following provisions of this paragraph, the provisions of this Act shall have effect in relation to Crown employment and to workers in Crown employment as they have effect in relation to other employment and to other workers.

(2) In this paragraph (subject to sub-paragraph (4) below) “Crown employment” means 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 or of any women’s service administered by the Defence Council, and “Crown employee” means a person who is for the time being in Crown employment or (where it has ceased) was in Crown employment.

(3) For the purposes of the application of the provisions of this Act in relation to Crown employment in accordance with sub-paragraph (1) above—

- (a) any reference to an employee shall be construed as a reference to a Crown employee ;
- (b) any reference to dismissal shall be construed as a reference to the termination of Crown employment ;
- (c) any reference to redundancy shall be construed as a reference to the existence of such circumstances as, in accordance with any arrangements for the time being in force as mentioned in section 41(3) of the Redundancy Payments Act 1965, are treated as equivalent to redundancy in relation to Crown employment ;
- (d) the reference in paragraph 21(5)(c) above to any person’s undertaking or an undertaking in which he works 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, shall be construed as a reference to the functions of the department or (as the context may require) to the department.
- 1965 c. 62.

SCH. 1  
1965 c. 62.

(4) For the purposes of this Act—

(a) none of the bodies specified in Schedule 3 to the Redundancy Payments Act 1965 (national health service employers) shall be regarded as performing functions on behalf of the Crown, and their employees shall not be regarded as being employed under or for the purposes of a government department, and accordingly employment by any such body shall not be Crown employment within the meaning of this paragraph;

1953 c. 50.

(b) associations established for the purposes of the Auxiliary Forces Act 1953 shall be treated as if they were government departments, and accordingly employment by any such association shall be Crown employment within the meaning of this paragraph;

and for the purposes of this paragraph Crown employment does not include any employment in respect of which a certificate to which sub-paragraph (5) below applies is for the time being in force.

(5) This sub-paragraph applies to any certificate issued by or on behalf of a Minister of the Crown and 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 sub-paragraph (1) above for the purpose of safeguarding national security; and any document purporting to be a certificate so issued shall be received in evidence and shall, unless the contrary is proved, be deemed to be such a certificate.

Section 11.

## SCHEDULE 2

### ADMINISTRATIVE PROVISIONS RELATING TO TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

#### PART I

#### ANNUAL RETURNS, AND QUALIFICATIONS, APPOINTMENT AND REMOVAL, AND FUNCTIONS, OF AUDITORS

##### *Annual returns*

1.—(1) Subject to paragraph 5 below, the annual return of a trade union or an employers' association required by section 11(2) above shall be sent to the Registrar before 1st June and shall relate to the last preceding calendar year.

(2) The annual return shall be in such form and be signed by such persons as the Registrar may require.

2. Every annual return shall contain—

(a) revenue accounts indicating the income and expenditure of the trade union or employers' association for the period to which the return relates;

(b) a balance sheet as at the end of that period;

(c) such other accounts (if any) as the Registrar may require ; SCH. 2  
and

(d) a copy of the rules of the trade union or employers' association as in force at the end of that period ;

and shall have attached to it a note of all changes in the officers of the union or association and of any change in the address of the head or main office of the union or association during the period to which the return relates.

3. Every revenue account, every balance sheet and every other account contained in a return in accordance with paragraph 2 above shall give a true and fair view of the matters to which it relates.

4. Every return, in addition to containing the accounts mentioned in paragraph 2 above, shall contain a copy of the report made by the auditor or auditors of the trade union or employers' association on those accounts under paragraph 18 below and such other documents relating to those accounts and such further particulars as the Registrar may require, subject in the case of the accounts contained in the return to such modifications (if any) as may be necessary to secure compliance with paragraph 3 above.

5. The Registrar, if in any particular case he considers it appropriate to do so—

(a) may direct that the period for which a return is to be sent to him under section 11(2) above shall be a period other than the calendar year last preceding the date on which the return is sent ;

(b) whether a direction under sub-paragraph (a) above is given or not, may direct that the date before which any such return is to be sent to him shall be such date (whether before or after 1st June) as may be specified in the direction.

#### *Qualifications of auditors*

6. Subject to paragraphs 7 to 9 below, a person shall not be qualified to be the auditor or one of the auditors of a trade union or employers' association unless he is either a member of one or more of the following bodies—

(a) the Institute of Chartered Accountants in England and Wales ;

(b) the Institute of Chartered Accountants of Scotland ;

(c) the Association of Certified Accountants ;

(d) the Institute of Chartered Accountants in Ireland ;

(e) any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 1948 c. 38. by the Secretary of State,

or a person who is for the time being authorised by the Secretary of State under section 161(1)(b) of that Act as being a person with similar qualifications obtained outside the United Kingdom.

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7. Notwithstanding anything in paragraph 6 above, a Scottish firm may act as auditor of a trade union or employers' association if, but only if, every partner of the firm is qualified so to act.

8. A person who is not qualified under paragraph 6 above may act in respect of any accounting period as auditor of a trade union or employers' association if—

- (a) it was registered under the Trade Union Acts 1871 to 1964 on 30th September 1971 ;
- (b) he acted as its auditor in respect of the last period in relation to which it was required to make an annual return under section 16 of the Trade Union Act 1871 ;
- (c) he has acted as its auditor in respect of every accounting period since that period ; and
- (d) he is for the time being authorised by the Secretary of State under section 161(1)(b) of the Companies Act 1948 otherwise than as mentioned in paragraph 6 above.

1871 c. 31.

1948 c. 38.

9.—(1) Two or more persons who are not qualified under paragraph 6 above may act as auditors of a trade union or employers' association in respect of any accounting period of that union or association if—

- (a) its receipts and payments in respect of its last preceding accounting period did not in the aggregate exceed £5,000 ;
- (b) the number of its members at the end of its last preceding accounting period did not exceed 500 ; and
- (c) the value of its assets at the end of its last preceding accounting period did not in the aggregate exceed £5,000.

(2) Where by virtue of sub-paragraph (1) above persons who are not qualified under paragraph 6 above act as auditors in respect of any accounting period of a trade union or employers' association, the Registrar may at any time (whether during that period or after it comes to an end) direct the trade union or employers' association to appoint a person who is so qualified to audit its accounts for that period.

(3) Regulations may—

- (a) substitute for any sum or number for the time being specified in sub-paragraph (1) above such sum or number as may be specified in the regulations ; and
- (b) prescribe what receipts and payments shall be taken into account for the purposes of that sub-paragraph.

10.—(1) None of the following persons shall act as auditor of a trade union or employers' association, that is to say—

- (a) an officer or employee of the trade union or employers' association or of any of its branches or sections ;
- (b) a person who is a partner of, or in the employment of, or who employs, such an officer or employee ;
- (c) a body corporate.

(2) References in this paragraph to an officer shall be construed as not including an auditor.



*Appointment and removal of auditors*

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11. The rules of every trade union and every employers' association shall contain provision for the appointment and removal of auditors.

12. Notwithstanding anything in the rules of a trade union or employers' association, its auditor or auditors shall not be removed from office except by resolution passed at a general meeting of its members, or of delegates of its members.

13.—(1) Notwithstanding anything in the rules of a trade union or employers' association, a qualified auditor appointed to audit its accounts for the preceding year of account shall (subject to subparagraph (2) of this paragraph) be re-appointed as auditor for the current year of account unless—

- (a) a resolution has been passed at a general meeting of the trade union or employers' association appointing somebody instead of him or providing expressly that he shall not be re-appointed, or
- (b) he has given to the trade union or employers' association notice in writing of his unwillingness to be re-appointed, or
- (c) he is ineligible for appointment as its auditor or one of its auditors for the current year of account, or
- (d) he has ceased to act as its auditor or one of its auditors by reason of incapacity.

(2) Where notice is given of an intended resolution to appoint some person or persons in place of a retiring auditor and the resolution cannot be proceeded with at the meeting because of the death or incapacity of that person or persons, or because he or they are ineligible for appointment as auditor or auditors for the current year of account, the retiring auditor shall not be automatically re-appointed by virtue of this paragraph.

(3) For the purposes of this paragraph a person is ineligible for appointment as auditor of a trade union or employers' association for the current year of account if, but only if,—

- (a) he would be precluded by paragraph 10 above from acting as its auditor for that year, or
- (b) he is not a qualified auditor at the time when the question of his appointment falls to be considered.

(4) In this paragraph "qualified auditor", in relation to a trade union or employers' association, means a person qualified to be its auditor or one of its auditors in accordance with paragraphs 6 to 9 above, "the current year of account", in relation to the appointment of a person as auditor, means the year of account in which the question of that appointment arises, and "the preceding year of account" means the year of account immediately preceding the current year of account.

14. Regulations may make provision as to the procedure to be followed when it is intended to move a resolution—

- (a) appointing another auditor or other auditors in place of a retiring auditor or retiring auditors of a trade union or an employers' association, or

SCH. 2

- (b) providing expressly that a retiring auditor or auditors of a trade union or an employers' association shall not be re-appointed,

and as to the rights of auditors and members of a trade union or an employers' association in relation to such a motion.

15.—(1) Where any regulations made under paragraph 14 above require copies of any representations made by a retiring auditor to be sent out, or require any such representations to be read out at a meeting, the High Court or the Court of Session, on the application of the trade union or employers' association or of any other person, may dispense with that requirement if satisfied that the rights conferred on the retiring auditor by the regulations are being abused to secure needless publicity for defamatory matter.

(2) On any such application the High Court or the Court of Session may order the costs or expenses of the trade union or employers' association to be paid, in whole or in part, by the retiring auditor, whether he is a party to the application or not.

*Auditor's right of access to books and information and right to be heard at meetings*

16. Every auditor of a trade union or an employers' association—

- (a) shall have a right of access at all times to its accounting records and to all other documents relating to its affairs, and  
 (b) shall be entitled to require from its officers, or the officers of any of its branches or sections, such information and explanations as he thinks necessary for the performance of his duties as auditor.

17. Every auditor of a trade union or an employers' association shall be entitled—

- (a) to attend any general meetings of its members, or of delegates of its members, and to receive all notices of and other communications relating to any general meeting which any such member or delegate is entitled to receive, and  
 (b) to be heard at any meeting which he attends on any part of the business of the meeting which concerns him as auditor.

*Auditors' reports*

18. The auditor or auditors of a trade union or an employers' association shall make a report to it on the accounts of the trade union or employers' association audited by him or them and contained in its annual return.

19. The report shall state whether, in the opinion of the auditor or auditors, those accounts give a true and fair view of the matters to which they relate.

20. It shall be the duty of the auditor or auditors, in preparing a report under paragraph 18 above, to carry out such investigations

as will enable him or them to form an opinion as to the following matters, that is to say—

- (a) whether the trade union or employers' association has kept proper accounting records in accordance with the requirements of section 10 above ;
- (b) whether it has maintained a satisfactory system of control over its transactions in accordance with the requirements of that section ; and
- (c) whether the accounts to which the report refers are in agreement with the accounting records ;

and if in the opinion of the auditor or auditors the trade union or employers' association has failed to comply with section 10(2)(a) or (b) above or if the accounts to which the report relates are not in agreement with the accounting records, the auditor or auditors shall state that fact in the report.

21. If an auditor fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of an audit, he shall state that fact in his report.

22. In this Part of this Schedule "accounting period", in relation to a trade union or an employers' association, means any period in relation to which it is required under section 11(2) above to send a return to the Registrar.

## PART II

### MEMBERS' SUPERANNUATION SCHEMES

#### *Examination of superannuation schemes*

23. Subject to paragraphs 29 to 31 below, every trade union and every employers' association which at the commencement of this Part of this Schedule is maintaining a members' superannuation scheme shall arrange for the scheme, as it has effect at a date not later than two years from the commencement of this Part of this Schedule, to be examined by an appropriately qualified actuary, and for the actuary to make a report to the trade union or employers' association on the results of his examination of the scheme.

24. Where a members' superannuation scheme to which paragraph 23 above applies includes provision for the maintenance of a separate fund for the purpose of the scheme, the examination under that paragraph shall include a valuation (as at the date by reference to which the examination is carried out) of the assets comprised in that fund and of the liabilities falling to be discharged out of it.

25. The report made by the actuary on the results of his examination of any such scheme—

- (a) shall state whether in his opinion the premium or contribution rates are adequate and whether the accounting or funding arrangements are suitable, and

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- (b) if the scheme provides for the maintenance of a separate fund for the purposes of the scheme, shall state whether in his opinion the fund is adequate.

26. A copy of any report made by an actuary under paragraph 23 above, signed by the actuary, shall be sent to the Registrar ; and it shall be the duty of the trade union or employers' association to make such arrangements under that paragraph as will enable the report to be sent to the Registrar before the end of the period of one year from the date by reference to which the actuarial examination was carried out.

27. Subject to paragraphs 30 and 31 below, no trade union or employers' association shall after the commencement of this Part of this Schedule begin to maintain a members' superannuation scheme unless, before the date on which the scheme begins to be maintained,—

- (a) the proposals for the scheme have been examined by an appropriately qualified actuary ; and  
 (b) a copy of a report made to the trade union or employers' association by the actuary on the results of his examination of the proposals, signed by the actuary, has been sent to the Registrar ;

and the provisions of paragraph 25 above shall have effect in relation to a report under this paragraph on the proposals for a scheme as they have effect in relation to a report on a scheme under paragraph 23 above.

28. A copy of any report made to a trade union or employers' association under paragraph 23 or paragraph 27 above shall, on the application of any of its members, be supplied to him free of charge.

29. Where on the application of a trade union or employers' association the Registrar is satisfied—

- (a) that a members' superannuation scheme maintained by it, as it had effect at a date not more than two years before the commencement of this Part of this Schedule, has been examined by an actuary ;  
 (b) that the qualifications of the actuary were adequate for the purpose of carrying out the examination ; and  
 (c) that the examination, and the report made by the actuary on its results, fulfil the requirements of paragraphs 24 and 25 above,

the Registrar may direct that paragraph 23 above shall have effect, in relation to that scheme, as if for the reference to two years from the commencement of this Part of this Schedule there were substituted a reference to five years from the date by reference to which that examination was carried out.

30. The Registrar, on the application of a trade union or employers' association, may exempt any members' superannuation scheme which it maintains or proposes to maintain from the

requirements of paragraph 23 or (as the case may be) paragraph 27 above, if he is satisfied that, by reason of the small number of members to which the scheme is or would be applicable or for any other special reasons, it is unnecessary for the scheme to be examined in accordance with those requirements.

31. The Registrar may at any time revoke any exemption granted under paragraph 30 above if it appears to him that the circumstances by reason of which the exemption was granted have ceased to exist.

*Periodical re-examination of schemes*

32.—(1) Where a trade union or employers' association for the time being maintains a members' superannuation scheme, and either—

- (a) the scheme has been examined in pursuance of paragraph 23 above or in pursuance of this paragraph, or
- (b) the scheme itself has not been so examined but the proposals for the scheme have been examined in pursuance of paragraph 27 above,

the trade union or employers' association in question shall arrange for that scheme, as it has effect at each successive relevant date, to be examined by an appropriately qualified actuary, and for a report to be made to it by the actuary on the result of his examination of the scheme.

(2) Subject to the next following sub-paragraph, in this paragraph "relevant date", in relation to a members' superannuation scheme, means such date as the trade union or employers' association in question may determine, not being later than five years after the date by reference to which the last examination of the scheme, or (as the case may be) the examination of the proposals for the scheme, was carried out in accordance with paragraph 23 or paragraph 27 above or in accordance with the preceding sub-paragraph.

(3) In the case of any trade union or employers' association the Registrar may direct that, in relation to any time after the making of the direction, sub-paragraph (2) of this paragraph shall have effect as if, for the reference to five years there was substituted a reference to such shorter period as may be specified in the direction.

33. The provisions of paragraphs 24 to 26 and paragraph 28 above shall have effect in relation to the examination of a scheme under paragraph 32 above as they have effect in relation to the examination of a scheme under paragraph 23 above.

*Separate fund for members' superannuation scheme*

34. After the commencement of this Part of this Schedule no trade union or employers' association shall maintain a members' superannuation scheme which was not established before the commencement of this Part of this Schedule unless it maintains a separate fund for the payments of benefits in accordance with the scheme.

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35. After the end of the period of five years beginning with the date on which paragraph 34 above comes into operation no trade union or employers' association shall maintain a members' superannuation scheme (whenever established) unless it maintains a separate fund for the payment of benefits in accordance with the scheme.

*Interpretation of Part II*

36. In this Part of this Schedule—

- (a) "members' superannuation scheme" means any scheme or arrangement made by or on behalf of a trade union or employers' association (including any scheme or arrangement shown in the rules of a trade union or employers' association) in so far as it provides for benefits to be paid by way of pension (including any widows' or children's pensions or dependants' pensions) to or in respect of members or former members of the trade union or employers' association and to be so paid either out of the funds (whether the general funds or any other fund) of the trade union or employers' association or under any insurance scheme maintained out of those funds ;
- (b) "appropriately qualified actuary" in relation to a trade union or employers' association, means a person who is either a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries or is approved by the Registrar on the application of the trade union or employers' association as a person having actuarial knowledge ; and
- (c) "separate fund" means a fund separate from the general funds of the trade unions or employers' association.

Section 25.

SCHEDULE 3

MISCELLANEOUS AMENDMENTS

*The Conspiracy, and Protection of Property Act 1875 (c. 86)*

1. In section 3 of the Conspiracy, and Protection of Property Act 1875, for the words from "an industrial dispute" to "1971" substitute the words "a trade dispute".

*The Trade Union Act 1913 (2 & 3 Geo. 5. c. 30)*

2.—(1) The Trade Union Act 1913 shall be amended in accordance with the following provisions of this paragraph.

(2) For section 2(1), substitute as new subsections (1) and (1A) two subsections in the same terms as subsections (1) and (2) respectively of section 28 of this Act, but with the insertion in the definition of "employers' association" in subsection (2), after the words "temporary) which", of the words "is unincorporated and".

(3) In sections 3 to 6, for the words substituted by Schedule 8 to the 1971 Act substitute the words contained in those sections immedi-

ately before the substitutions were effected by that Act except in the contexts specified in sub-paragraph (4) below.

(4) In sections 3(1) and 4(1) omit the words from “whether the” to “is registered or not” and in section 4(2) the words “whether registered or not”.

(5) After section 6, insert—

<p>“Appli- cation of sections 3 to 6 to employers’ associations.</p>	<p>6A. Sections 3 to 6 of, and the Schedule to, this Act shall apply, with the necessary modifications, in relation to unincorporated employers’ associations as they apply in relation to trade unions.”</p>
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(6) For section 7 substitute—

“7. In any enactment relating to trade unions or employers’ associations, unless the context otherwise requires, the expression “the Registrar of Friendly Societies” means, in relation to a trade union or employers’ association whose office or head or main office is situated in England or Wales, the Chief Registrar of Friendly Societies, and in relation to a trade union or employers’ association whose office or head or main office is situated in Scotland, the assistant registrar for Scotland.”

*The Industrial Courts Act 1919 (c. 69)*

3. In sections 1, 2, 3, 7 and 9, for the words “Industrial Court” and “the Court”, wherever they occur (being words which appeared in those subsections before being amended by Schedule 8 to the 1971 Act) there shall continue to be substituted the words “Industrial Arbitration Board” and “the Board” respectively.

*The Road Haulage Wages Act 1938 (c. 44)*

4. In section 15(1) of the Road Haulage Wages Act 1938, for the definition of “Trade Union” substitute the words ““Trade Union” has the same meaning as in the Trade Union and Labour Relations Act 1974”.

*The Industrial Assurance and Friendly Societies Act 1948 (c. 39)*

5.—(1) The Industrial Assurance and Friendly Societies Act 1948 shall be amended in accordance with the following provisions of this paragraph.

(2) In section 6(1), for the words from “an organisation of workers” to “that Act” substitute the words “a trade union or an employers’ association”.

(3) In section 16(4), for the words substituted by the 1971 Act substitute the words “trade union or employers’ association”.

(4) In section 23(1) insert the following—

“(d) the expressions “trade union” and “employers’ association” have the same meanings respectively as they have in the Trade Union and Labour Relations Act 1974”.

## SCH. 3

*The House of Commons Disqualification Act 1957 (c. 20)*

6.—(1) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957, both in its application to the House of Commons of the United Kingdom and in its application to the Northern Ireland Assembly,—

- (a) there shall (at the appropriate place in alphabetical order) be re-inserted the following entry—  
“The Industrial Arbitration Board”; and
- (b) the entries relating to the Commission on Industrial Relations and the National Industrial Relations Court shall be omitted.

(2) In Part III of that Schedule, in its application to the House of Commons of the United Kingdom, the entry relating to the Chief Registrar or Assistant Registrar of Trade Unions and Employers' Associations shall be omitted and, in its application both to the House of Commons of the United Kingdom and to the Northern Ireland Assembly, at the end of the entry relating to members of wages councils and other persons appointed under the Wages Councils Act 1959 insert the words “or Member of a Commission of Inquiry appointed under paragraph 1(a) of Schedule 4 to that Act”.

1959 c. 69.

*The Insurance Companies Act 1958 (c. 72)*

7. In section 1 of the Insurance Companies Act 1958, after subsection (5) insert as a new subsection (5A) in place of that inserted by Schedule 8 to the 1971 Act the following—

“(5A) Where a trade union or an employers' association carries on insurance business, this Act does not apply to it as an insurance company if the insurance business is limited to the provision for its members of provident benefits or strike benefits.

In this subsection “trade union” and “employers' association” have the same meanings respectively as they have in the Trade Union and Labour Relations Act 1974.”

*The Terms and Conditions of Employment Act 1959 (c. 26)*

8. In section 8(2) of the Terms and Conditions of Employment Act 1959, for the words from “which is registered” to “1971, and is, or is” inserted by paragraph 2 of Schedule 7 to the 1971 Act substitute the words “being or”.

*The Wages Councils Act 1959 (c. 69)*

9.—(1) The Wages Councils Act 1959 shall be amended in accordance with the following provisions of this paragraph.

(2) The functions of commissions of inquiry under the Wages Councils Act 1959 transferred to the Commission on Industrial Relations by paragraph 40 of Schedule 3 to the 1971 Act shall become again functions of commissions of inquiry under the 1959 Act and accordingly any reference in sections 1, 2, 3, 6, 7 and 9 of, and Schedule 1 to, that Act which, by virtue of the 1971 Act,



became a reference to the Commission shall become again a reference to a commission of inquiry under the said Act of 1959.

(3) In section 5, at the end of subsection (1) there shall be re-inserted the words—

“ or

(c) by any organisation of workers which represents a substantial proportion of the workers with respect to whom that wages council operates ” ;

and in subsection (2) for the words from “ the council ” to the end of the subsection there shall continue to be substituted the words “ the existence of a wages council is no longer necessary for the purpose of maintaining a reasonable standard of remuneration for the workers with respect to whom that wages council operates ”.

(4) Section 9(1) and Schedule 4 (which were repealed by the 1971 Act) are hereby revived.

(5) In section 22(3), for the words “ any report ” substituted by Schedule 8 to the 1971 Act there shall continue to be substituted the words “ the report ”.

(6) In section 23 the words “ a commission of inquiry ” repealed by the 1971 Act are hereby revived.

(7) In section 24, there are hereby revived the definitions of “ wages council ” and “ commission of inquiry ” for which a definition of “ wages council ” was substituted by Schedule 8 to the 1971 Act.

(8) In Schedule 1, after paragraph 2 there shall be reinserted the following paragraph:—

“ 2A. In relation to the making of an order under section 4 of this Act in pursuance of an application made in accordance with section 5(1)(c) of this Act, paragraph 2 of this Schedule shall have effect as if, before the words ‘ shall publish ’, there were inserted the words ‘ after consultation with the wages council concerned and with all such organisations of employers as in his opinion represent a substantial proportion of employers with respect to whom the wages council operates ’.”

*The Trade Union (Amalgamations, etc.) Act 1964 (c. 24)*

10.—(1) The Trade Union (Amalgamations, etc.) Act 1964 shall be amended in accordance with the following provisions of this paragraph.

(2) In sections 1 to 11 (and the Schedules), for the expressions “ organisation to which this Act applies ” or “ organisation ” substituted by Schedule 8 to the 1971 Act, wherever they occur, substitute the words contained in those sections (and Schedules) immediately before the substitutions were effected by that Act.

(3) In section 1, for the subsection (1A) inserted by Schedule 8 to the 1971 Act substitute—

“ (1A) Subject to any express provision of this Act with respect to employers’ associations, this Act shall apply, with the necessary modifications, in relation to unincorporated employers’ associations as it applies in relation to trade unions.”

SCH. 3

(4) In section 4, for subsection (8) substitute—

“(8) In the course of proceedings on a complaint under this section the Registrar may, if he thinks fit, at the request of the complainant or of the trade union, state a case for the opinion of the High Court, or in relation to proceedings in Scotland the Court of Session, on any question of law arising in the proceedings.

The decision of the High Court or the Court of Session, as the case may be, on a case stated under this subsection shall be final.”

(5) For section 6(2) substitute—

“(2) If the name of a trade union or employers’ association is for the time being entered in the list of trade unions or employers’ associations under section 8 of the Trade Union and Labour Relations Act 1974, a change of its name shall not take effect until approved by the Registrar under this Act; and the Registrar shall not approve a change of name if it appears to him that the proposed new name is the same as one entered in either list as the name of another trade union or employers’ association or is a name so nearly resembling such a name as to be likely to deceive the public.”

(6) In section 7(1)(c) the words “or by any assistant registrar” repealed by the 1971 Act are hereby revived.

(7) Section 8 (which was repealed by the 1971 Act) is hereby revived.

(8) In section 9, for subsection (1) substitute—

“(1) In this Act, unless the context otherwise requires—

“amalgamating unions” and “amalgamated union”, in relation to a proposed amalgamation, mean respectively the trade unions proposing to amalgamate and the trade union which is to result from the proposed amalgamation;

“assistant registrar” means any assistant registrar of friendly societies appointed under section 1 of the Friendly Societies Act 1896;

“employers’ association” has the same meaning as in the Trade Union and Labour Relations Act 1974;

“Northern Ireland union” has the meaning assigned to it by section 10 of this Act;

“the Registrar” means the Chief Registrar of Friendly Societies;

“trade union” has the same meaning as in the Trade Union and Labour Relations Act 1974;

“transferor trade union” and “transferee trade union”, in relation to a proposed transfer of engagements, mean respectively the trade union proposing to transfer its engagements and the trade union proposing to accept them.”

*The Trade Union (Amalgamations etc.) Act (Northern Ireland) 1965* SCH. 3  
(c. 2) (N.I.)

11. For section 9(2) of the Trade Union (Amalgamations etc.) Act (Northern Ireland) 1965 substitute—

“(2) In this Act “Great Britain union” means a trade union or employers’ association within the meaning of the Trade Union and Labour Relations Act 1974, being either—

- (a) a union whose name is for the time being entered in the list of trade unions or of employers’ associations under section 8 of that Act; or
- (b) a union or association whose name is not so entered, but whose principal office is situated in England, Wales or Scotland.”

*The Companies Act 1967* (c. 81)

12. In section 60(1) of the Companies Act 1967 for the paragraph (e) inserted by Schedule 8 to the 1971 Act substitute the following—

“(e) a trade union or employers’ association (within the meaning of the Trade Union and Labour Relations Act 1974) where the insurance business carried on by the union or association is limited to the provision for its members of provident benefits or strike benefits”.

*The Insurance Companies Act (Northern Ireland) 1968*  
(c. 6) (N.I.)

13.—(1) The Insurance Companies Act (Northern Ireland) 1968 shall be amended in accordance with the following provisions of this paragraph.

(2) In section 1(2)(a) omit the words “or trade unions”.

(3) In section 1(2) after paragraph (c) insert—

“or

(d) any insurance company which is, or is deemed to be, registered under the Acts relating to trade unions or to any insurance company which is a Great Britain union if in either case the insurance business is limited to the provision for its members of provident benefits or strike benefits.”.

(4) In section 3(1)(c) omit the words “or trade unions”.

(5) In section 3(1) after paragraph (d) insert:—

“(e) a body which is, or is deemed to be, registered under the Acts relating to trade unions, or is a Great Britain union and in either case limits its insurance business to the provision for its members of provident benefits or strike benefits.”.

SCH. 3 (6) In section 72(1) at the appropriate place in alphabetical order insert—

“ “Great Britain union” means a trade union or employers’ association within the meaning of the Trade Union and Labour Relations Act 1974, being either—

(a) a union whose name is for the time being entered in the list of trade unions or of employers’ associations under section 8 of that Act ; or

(b) a union or association whose name is not so entered, but whose principal office is situated in England, Wales or Scotland.

*The Merchant Shipping Act 1970 (c. 36)*

14. In section 42 of the Merchant Shipping Act 1970, in subsection (2), for the words “industrial dispute” substitute the words “trade dispute (within the meaning of the Trade Union and Labour Relations Act 1974)” and omit subsection (3).

*The Tribunals and Inquiries Act 1971 (c. 62)*

15. Section 13 of the Tribunals and Inquiries Act 1971 (which, among other things, makes provision for appeals from and the statement of cases by industrial tribunals to the High Court or Court of Session) shall, in its application to industrial tribunals, be taken as referring to those tribunals when exercising any jurisdiction whatsoever, notwithstanding the effect of any order which was made under section 114 of the 1971 Act (appeals from industrial tribunals to the National Industrial Relations Court).

*The Contracts of Employment Act 1972 (c. 53)*

16. In section 4(2) of the Contracts of Employment Act 1972, omit paragraph (a) and in section 11(1) omit the definitions of “agency shop agreement” and “approved closed shop agreement”.

*The Administration of Justice (Scotland) Act 1972 (c.59)*

17. In section 3(3) of the Administration of Justice (Scotland) Act 1972, for the words “an industrial dispute within the meaning of the Industrial Relations Act 1971” substitute the words “a trade dispute within the meaning of the Trade Union and Labour Relations Act 1974”, for the words “Act of 1971” substitute the words “Act of 1974” and omit the words “described in section 124 of that Act”.

Section 25.

SCHEDULE 4

TRANSITIONAL PROVISIONS

1. Schedule 1 to this Act shall apply to dismissals where the effective date of termination (within the meaning of that Schedule) falls on or after the commencement of that Schedule.

2. Subject to any provision to the contrary contained in section 21 or 23 above, sections 22 to 33 of the 1971 Act (unfair dismissals) and the other provisions of that Act relating to proceedings for

unfair dismissal shall, notwithstanding the repeal of that Act by this Act, continue to apply to dismissals where the effective date of termination falls before the commencement of Schedule 1 to this Act.

SCH. 4

3. Parts III and IV of Schedule 1 to this Act shall apply to any act (other than a dismissal) done before the commencement of that Schedule in respect of which an industrial tribunal continues to have jurisdiction as if they had been in force when the act was done.

4. As respects proceedings pending in the National Industrial Relations Court immediately before the passing of this Act and transferred by section 21 above to the High Court or Court of Session, rules made by virtue of paragraph 24 of Schedule 3 to the 1971 Act (costs and expenses of parties) shall, notwithstanding the repeal of that Schedule by this Act, continue to have effect and shall with any necessary modifications, apply to the High Court and Court of Session as they applied before the passing of this Act to the National Industrial Relations Court.

5. Schedule 2 to this Act shall apply to a trade union's or employers' association's return and accounts for 1974 or the period substituted therefor by a direction under paragraph 5 of that Schedule, notwithstanding that that Schedule was not in force for the whole of that year or period.

6.—(1) In so far as anything done or treated as done under any enactment contained in the 1971 Act, which is re-enacted, with or without amendment, in a corresponding provision of Schedule 1 or Schedule 2 to this Act, could have been done under that provision, then, subject to sub-paragraph (3) below, it shall on the commencement of that Schedule have effect as if done under that provision.

(2) In particular, sub-paragraph (1) above applies to the following things done under any such enactment, that is to say—

any complaint presented ;

any application, determination, recommendation, award, order, regulations, appointment, request or report made ;

any certificate, exemption or notice given.

(3) Sub-paragraph (1) above shall not apply to anything done under those provisions of the 1971 Act which continue to apply to dismissals by virtue only of paragraph 2 above.

(4) Without prejudice to sub-paragraph (1) above, any regulations made wholly or partly under Section 46 of the Redundancy Payments Act 1965 and in force immediately before the passing of this Act shall so far as so made continue in force and have effect as if made under paragraph 21 of Schedule 1 to this Act. 1965 c. 62.

7. Any enactment or document which refers, whether specifically or by means of a general description, to an enactment contained in the 1971 Act which is re-enacted, with or without amendment, in a corresponding provision of Schedule 1 or Schedule 2 to this Act shall, except so far as the context otherwise requires, be construed as referring, or as including a reference, to that corresponding provision.

8. Nothing in this Schedule shall be construed as prejudicing section 38 of the Interpretation Act 1889 (effect of repeals). 1889 c. 63.

## Section 25.

## SCHEDULE 5

## ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
2 & 3 Geo. 5. c. 30.	The Trade Union Act 1913.	In sections 3(1) and 4(1), the words from "whether the" to "is registered or not".
1957 c. 20.	The House of Commons Disqualification Act 1957.	In section 4(2), the words "whether registered or not". In Part II of Schedule 1, both in its application to the House of Commons of the United Kingdom and in its application to the Northern Ireland Assembly, the entries relating to the Commission on Industrial Relations and the National Industrial Relations Court. In Part III of Schedule 1, in its application to the House of Commons of the United Kingdom, the entry relating to the Chief Registrar or Assistant Registrar of Trade Unions and Employers' Associations.
1968 c. 6 (N.I.).	The Insurance Companies Act (Northern Ireland) 1968.	In section 1(2)(a), the words "or trade unions". In section 3(1)(c), the words "or trade unions".
1970 c. 36.	The Merchant Shipping Act 1970.	Section 42(3).
1971 c. 72.	The Industrial Relations Act 1971.	The whole Act.
1972 c. 53.	The Contracts of Employment Act 1972.	In section 4(2), paragraph (a). In section 11(1), the definitions of "agency shop agreement" and "approved closed shop agreement".
1972 c. 59.	The Administration of Justice (Scotland) Act 1972.	In section 3(3), the words "described in section 124 of that Act".
1973 c. 58.	The Insurance Companies Amendment Act 1973.	Section 40. In Schedule 3, paragraph 31.

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