STATUTORY INSTRUMENTS

2026 No. 1104

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Protection Code of Practice (Time Off for Trade Union Duties and Activities) Order 2026

Made - - - - 19th October 2026

The Secretary of State makes this Order in exercise of the powers conferred by section 200(5) of the Trade Union and Labour Relations (Consolidation) Act 1992(**a**) ("the 1992 Act").

In accordance with section 199(4) of the 1992 Act the Advisory, Conciliation and Arbitration Service ("ACAS") may from time to time revise the whole or any part of a Code of Practice issued by it.

In accordance with section 199(4) of the 1992 Act ACAS proposed to revise the Code of Practice on Time Off for Trade Union Duties and Activities(**b**) which came into effect on 1st January 2010.

In accordance with section 200(1) of the 1992 Act ACAS prepared and published in draft a revised Code of Practice on Time Off for Trade Union Duties and Activities ("the draft Code"), considered any representations made to it about the draft Code and modified it accordingly.

In accordance with section 200(2) of the 1992 Act ACAS transmitted the draft Code, as so modified, to the Secretary of State.

In accordance with section 200(2)(a) of the 1992 Act, the Secretary of State approved the draft Code, as so modified, and laid it before both Houses of Parliament.

In accordance with section 200(3) of the 1992 Act(**c**), the draft Code, as so modified, has been approved by resolution of each House of Parliament and ACAS is issuing the revised Code of Practice in the form of the draft approved by Parliament.

(**a**) 1992 c. 52.

(**b**) The Code of Practice on Time Off for Trade Union Duties and Activities was brought into effect by the Employment Protection Code of Practice (Time Off for Trade Union Duties and Activities) Order 2009 (S.I. 2009/3223).

(**c**) Section 200(3) was substituted by the Employment Act 2002 (c. 22), section 43(1) and (8), and amended by section 64(6) and section 65(9) of the Employment Rights Act 2025 (c. 36).

Citation, extent and interpretation

1.—(1) This Order may be cited as the Employment Protection Code of Practice (Time Off for Trade Union Duties and Activities) Order 2026.

(2) This Order extends to England and Wales and Scotland.

(3) In this Order, "the Code of Practice on Time Off for Trade Union Duties and Activities" means the revised Code of Practice on Time Off for Trade Union Duties and Activities which was laid in draft before each House of Parliament on 6th July 2026.

Appointed day for the Code of Practice

2. The day appointed by the Secretary of State under section 200(5) of the Trade Union and Labour Relations (Consolidation) Act 1992(**a**) for the coming into effect of the Code of Practice on Time Off for Trade Union Duties and Activities issued by the Advisory, Conciliation and Arbitration Service pursuant to that section is 30th October 2026.

Transitional and saving provision

3. The Code of Practice on Time Off for Trade Union Duties and Activities does not apply to the extent it is relevant to any employment tribunal claim brought under section 168(4)(a) or section 168A(9)(a) of the 1992 Act (time off for carrying out trade union duties or for union learning representatives)(**b**) in respect of an employer's failure to permit an employee to take time off, where the date of the failure occurs before 30th October 2026.

Kate Dearden
Minister of State
19th October 2026 Department for Business, Innovation, Science and Trade

(**a**) 1992 c. 52.
(**b**) Section 168 was amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8); and section 64(2) of the Employment Rights Act 2025 (c. 36) ("the 2025 Act"). There are other amendments to section 168 but none are relevant. Section 168A was inserted by section 43(2) of the Employment Act 2002 (c. 22), and amended by section 64(3) of the 2025 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 30th October 2026 as the day upon which the revised Code of Practice on Time Off for Trade Union Duties and Activities will come into effect. The Code of Practice, which includes guidance on time off for trade union representatives, trade union learning and equality representatives, is being issued by the Advisory, Conciliation and Arbitration Service under section 199 and section 200 of the Trade Union and Labour Relations (Consolidation) Act 1992.

The revised Code of Practice replaces the existing Code of Practice on Time Off for Trade Union Duties and Activities which came into effect on 1st January 2010. Article 3 provides a transitional provision which means that in certain circumstances the new Code will not apply, in which case the previous Code, that was brought into effect by the Employment Protection Code of Practice (Time Off for Trade Union Duties and Activities) Order 2009 (S.I. 2009/3223), will continue to apply.

The revised Code of Practice on Time Off for Trade Union Duties and Activities is available at www.acas.org.uk. A copy may also be inspected by contacting the Department for Business, Innovation, Science and Trade, Old Admiralty Building, Admiralty Place, London, SW1A 2DY.

A full impact assessment has not been produced for this Order or the Code of Practice as no, or no significant, impact on the private, voluntary or public sector is foreseen. The Code reflects changes made by the Employment Rights Act 2025, for which an impact assessment has been published setting out the costs and benefits of the relevant measures. The impact assessment is available at: https://assets.publishing.service.gov.uk/media/67129bcc8a62ffa8df77b3df/Impact_assessment_strengthening_workers_rights_trade_union_access_recognition_representati on.pdf. Printed copies can be obtained from the Department for Business and Trade, Old Admiralty Building, Admiralty Place, London, SW1A 2DY.

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