Industrial Relations Act 1971

1971 CHAPTER 72

An Act to amend the law relating to employers and workers and to organisations of employers and organisations of workers; to provide for the establishment of a National Industrial Relations Court and for extending the jurisdiction of industrial tribunals; to provide for the appointment of a Chief Registrar of Trade Unions and Employers' Associations, and of assistant registrars, and for establishing a Commission on Industrial Relations as a statutory body; and for purposes connected with those matters. [5th August 1971]

BE 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:—

PART I

INTRODUCTORY

General principles.

1.—(1) The provisions of this Act shall have effect for the purpose of promoting good industrial relations in accordance with the following general principles, that is to say,—

(*a*) the principle of collective bargaining freely conducted on behalf of workers and employers and with due regard to the general interests of the community;

(*b*) the principle of developing and maintaining orderly procedures in industry for the peaceful and expeditious settlement of disputes by negotiation, conciliation or arbitration, with due regard to the general interests of the community;

(*c*) the principle of free association of workers in independent trade unions, and of employers in employers' associations, so organised as to be representative, responsible and effective bodies for regulating relations between employers and workers; and

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(*d*) the principle of freedom and security for workers, protected by adequate safeguards against unfair industrial practices, whether on the part of employers or others.

(2) With a view to fulfilling that purpose those principles shall be regarded as guiding principles—

(*a*) by the Secretary of State, the Commission on Industrial Relations, and the Chief Registrar of Trade Unions and Employers' Associations, and assistant registrars, to be appointed under this Act, in the performance by them respectively of their functions under this Act, and

(*b*) by the National Industrial Relations Court to be established under this Act, and by industrial tribunals, in the exercise of the jurisdiction conferred by or under this Act on that Court and on those tribunals.

Code of industrial relations practice.

2.—(1) It shall be the duty of the Secretary of State, before the end of the period of one year beginning with the passing of this Act, to prepare in draft a code of practice, containing such practical guidance as in the opinion of the Secretary of State would be helpful for the purpose specified in section 1(1) of this Act.

(2) In preparing 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.

(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 Act.

Approval by Parliament of code of practice and revisions of code.

3.—(1) The Secretary of State shall, before the end of the period of one year beginning with the passing of this Act, lay before both Houses of Parliament a draft of the code of practice prepared by him under section 2(1) of this Act.

(2) If the draft laid under the preceding subsection is approved by a resolution of each House of Parliament, the Secretary of State shall issue the code of practice in the form of the draft.

(3) 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, after consultation with the Trades Union Congress and the Confederation of British Industry, prepare a draft of the revised code, or of that part of it, as the case may be, and shall transmit a copy of the draft to the Commission for their consideration and advice.

(4) The Secretary of State shall take account of any advice given to him by the Commission with respect to a draft prepared under subsection (3) of this section 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.

(5) If the draft laid under subsection (4) of this section 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.

(6) On issuing any document under this section (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 of practice in proceedings under this Act.

4. 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 Act shall not of itself render him liable to any proceedings; but in any proceedings before the Industrial Court or 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 Court or tribunal to be relevant to any question arising in the proceedings shall be taken into account by the Court or tribunal in determining that question.

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RIGHTS OF WORKERS

Trade union membership and activities

Rights of workers in respect of trade union membership and activities.

5.—(1) Every worker shall, as between himself and his employer, have the following rights, that is to say,—

(*a*) the right to be a member of such trade union as he may choose;

(*b*) subject to sections 6 and 17 of this Act, the right, if he so desires, to be a member of no trade union or other organisation of workers or to refuse to be a member of any particular trade union or other organisation of workers;

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(*c*) where he is a member of a trade union, the right, at any appropriate time, to take part in the activities of the trade union (including any activities as, or with a view to becoming, an official of the trade union) and the right to seek or accept appointment or election, and (if appointed or elected) to hold office, as such an official

(2) It shall accordingly be an unfair industrial practice for any employer, or for any person acting on behalf of an employer,—

(*a*) to prevent or deter a worker from exercising any of the rights conferred on him by subsection (1) of this section, or

(*b*) to dismiss, penalise or otherwise discriminate against a worker by reason of his exercising any such right, or

(*c*) except in accordance with the next following section, to refuse to engage a worker on the grounds that, at the time when he applied for engagement, he was a member of a trade union or of a particular trade union, or that he was not then a member of a trade union or other organisation of workers or of a particular trade union or other organisation of workers or of any of two or more particular trade unions or other such organisations.

(3) For the purposes of subsection (2)(*a*) of this section an employer, or a person acting on behalf of an employer, shall not be regarded as preventing or deterring a worker from exercising the rights conferred on the worker by subsection (1)(*b*) of this section by reason only that (without any suggestion of reward for compliance or penalty for non-compliance) he seeks to encourage the worker to join a trade union which the employer recognises as having negotiating rights in respect of him

(4) Where an employer offers a benefit of any kind to any workers as an inducement to refrain from exercising a right conferred on them by subsection (1) of this section, and the employer—

(*a*) confers that benefit on one or more of those workers who agree to refrain from exercising that right, and

(*b*) withholds it from one or more of them who do not agree to do so,

the employer shall for the purposes of this section be regarded, in relation to any such worker as is mentioned in paragraph (*b*) of this subsection, as having thereby discriminated against him by reason of his exercising that right.

(5) In this section " appropriate time ", in relation to a worker taking part in any activities of a trade union, means time which either—

(*a*) is outside his working hours, or

(*b*) is a time within his working hours at which, in accordance with arrangements agreed with, or consent given by or on behalf of, his employer, it is permissible for him to take part in those activities;

and in this subsection " working hours ", in relation to a worker, means any time when, in accordance with his contract with his employer, he is required to be at work.

(6) In this section any reference to a trade union shall be construed as including a reference to an organisation of workers which is for the time being entered in the provisional register.

Modification of rights by agency shop agreement.

6.—(1) Where an agency shop agreement is for the time being in force, a worker to whom the agreement applies shall not have the right, as between himself and an employer to whom the agreement applies, to refuse to be a member of the trade union with which the agreement was made unless he agrees to pay appropriate contributions to the trade union in lieu of membership of it.

(2) In accordance with the preceding subsection, it shall not be an unfair industrial practice for an employer to whom an agency shop agreement applies, or for a person acting on behalf of such an employer,—

(*a*) to dismiss, penalise or otherwise discriminate against any such worker on the grounds that he is not a member of the trade union with which the agreement was made and has not agreed, or has refused or failed, to pay appropriate contributions to it, or

(*b*) to refuse to engage a worker who, if engaged by the employer, would be a worker to whom the agreement applies, on the grounds that he is not a member of that trade union and refuses to become a member of it and also refuses to pay appropriate contributions to it.

(3) Where a worker to whom an agency shop agreement applies has agreed to pay appropriate contributions to the trade union with which the agreement was made, and requests his employer to deduct the contributions from his remuneration and pay them on his behalf, then so long as that request remains in force—

(*a*) he shall not be regarded for the purposes of subsection (2)(*a*) of this section as having refused to pay the contributions to the trade union, and

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(*b*) any failure on the part of the employer to comply with the request shall not be regarded as a failure on the part of the worker to pay the contributions.

(4) In the application of the preceding subsections to an agency shop agreement made with two or more trade unions, references in those subsections to the trade union with which the agreement was made shall be construed as references to one of those trade unions.

(5) In relation to a person who, in accordance with section 9 or section 10 of this Act, is permitted on grounds of conscience to pay contributions to a charity instead of contributions to a trade union, subsections (1) to (4) of this section shall have effect as if any reference to appropriate contributions to a trade union were a reference to equivalent contributions to that charity.

(6) In this Act references to an employer to whom an agency shop agreement applies shall be construed as follows, that is to say—

(*a*) in the case of such an agreeement made by one or more employers, or made by an employers' association and expressed to be made on behalf of one or more employers specified in the agreement, any such reference shall be construed as a reference to that employer or any of those employers, as the case may be;

(*b*) in the case of such an agreement made by an employers' association otherwise than as mentioned in the preceding paragraph, any such reference shall be construed as a reference to any employer who is for the time being a member of that employers' association, whether he was a member of it on the date on which the agreement was made or not.

Pre-entry closed shop agreements to be void.

7.—(1) In so far as any provision in any agreement purports—

(*a*) to preclude an employer, or employers of a description specified in the agreement, from engaging workers who are not members of a trade union or other organisation of workers, or from engaging workers who are not members of a particular trade union or other organisation of workers specified in the agreement, or are not members of any of two or more trade unions or other such organisations so specified, or

(*b*) to preclude an employer, or employers of a description specified in the agreement, from engaging workers who have not been recommended or approved for engagement by a trade union or other organisation of workers specified in the agreement, or by any of two or more trade unions or other such organisations so specified,

that provision shall be void.

(2) Any worker who, on application to an employer, has been refused engagement, and who claims that the refusal was attributable (wholly or in part) to a provision in an agreement which had the effect of precluding the employer as mentioned in paragraph (*a*) or paragraph (*b*) of subsection (1) of this section may apply to the Industrial Court for an order under the next following subsection.

(3) If on such an application the Industrial Court finds—

(*a*) that an agreement is in force consisting of or including a provision so formulated as to have the effect specified in subsection (2) of this section, however that provision is expressed and whether it purports to have that effect or not;

(*b*) that the refusal of the employer to engage the worker was wholly or partly attributable to that provision; and

(*c*) that the provision in question constitutes a substantial derogation from the rights conferred on workers by section 5 of this Act,

the Industrial Court shall make an order declaring that provision to be void.

Appropriate contributions to trade union in lieu of membership.

8.—(1) Any reference in this Act to appropriate contributions to a trade union in lieu of membership of the trade union shall be construed in accordance with the following provisions of this section.

(2) Appropriate contributions to a trade union in lieu of membership may be either—

(*a*) periodical payments only, or

(*b*) periodical payments and an initial payment,

as any particular agency shop agreement may provide; and, subject to the following provisions of this section and to section 10 of this Act, the amount of any such contribution payable by any person under an agency shop agreement shall be such amount as may be determined in accordance with the agreement.

(3) In so far as they consist of periodical payments, appropriate contributions payable by a person to a trade union for any year in pursuance of an agency shop agreement shall not in the aggregate exceed the aggregate amount which he would be required to pay for that year by way of periodical contributions in respect of membership if he were a member of the trade union, excluding any such contribution which (subject to his giving any requisite notice) he would not be obliged to pay.

(4) An agency shop agreement may provide for appropriate contributions to include an initial payment to a trade union where, under the rules of the trade union, a new member of

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the trade union would be required, on joining the union, to pay an initial contribution in addition to any periodical contributions; but, where the rules of the trade union do require such an initial contribution, any initial payment for which the agreement provides shall not exceed the initial contribution so required by the rules of the trade union.

(5) In the case of a person who, on the date on which an agency shop agreement takes effect, is a worker to whom the agreement applies, the agreement shall not require him to pay any such contribution as is mentioned in this section in respect of any period beginning earlier than three months from that date; and, in the case of a person who on that date is not a worker to whom the agreement applies, but subsequently becomes such a worker, the agreement shall not require him to pay any such contribution in respect of any period beginning earlier than one month from the date on which his employment as such a worker begins.

(6) The Secretary of State may by order made by statutory instrument provide that, in so far as any agency shop agreement relates to workers engaged, or seeking to be engaged, in work of a description specified in the order, subsection (5) of this section shall have effect as if, for the references to three months and one month, there were substituted references to such shorter periods as are specified in the order.

Contributions to charity instead of contributions to trade union.

9.—(1) Any worker who—

(*a*) in accordance with an agency shop agreement would, unless otherwise permitted under this or the next following section, be required to agree to pay appropriate contributions to a trade union, but

(*b*) objects on grounds of conscience both to being a member of a trade union and to paying contributions to a trade union in lieu of membership of it,

may propose to the trade union that, instead of paying such contributions, he should agree to pay equivalent contributions to a charity to be determined by agreement between him and the trade union.

(2) If the trade union agrees to the proposal, and the amount of the contributions, and the charity to which they are to be paid, are agreed between the worker and the trade union, the contributions so agreed shall be taken to be the equivalent contributions for the purposes of this Act.

(3) In this Part of this Act "charity" means any institution or other organisation established for charitable purposes only; and in relation to Scotland "charitable" shall be construed in the same way as if it were contained in the Income Tax Acts.

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Reference to industrial tribunal of dispute relating to contribution

10.—(1) Where any worker claims that a contribution which a trade union requires him to pay, as being an appropriate contribution payable in accordance with an agency shop agreement,—

(*a*) is not payable in accordance with the agreement, or

(*b*) exceeds the limit permitted by section 8 of this Act,

he may, in accordance with industrial tribunal regulations, require that claim to be referred to and determined by an industrial tribunal.

(2) If, in consequence of a proposal made by a worker under section 9 of this Act, a dispute arises between him and the trade union to which the proposal is made on any question—

(*a*) whether his objections to paying contributions to the trade union are genuinely objections on grounds of conscience, or

(*b*) to which charity the contributions should be payable, or

(*c*) what contributions to a charity would be equivalent to appropriate contributions to the trade union,

the question in dispute may, in accordance with industrial tribunal regulations, be referred to and determined by an industrial tribunal.

(3) Any matter determined by the decision of an industrial tribunal on a reference under this section shall have the like effect for the purposes of this Act as if it had been agreed between the worker and the trade union.

Agency shop agreements

Agency shop agreement.

11.—(1) In this Act "agency shop agreement" means an agreement made between one or more employers and one or more trade unions or between an employers' association and one or more trade unions, whereby it is agreed, in respect of workers of one or more descriptions specified in the agreement, that their terms and conditions of employment shall include a condition that every such worker must either—

(*a*) be or become a member of that trade union or of one of those trade unions, as the case may be, or

(*b*) agree to pay appropriate contributions to that trade union, or (as the case may be) to one of those trade unions, in lieu of membership or (where permitted to do so in accordance with section 9 or section 10 of this Act) agree to pay equivalent contributions to a charity.

(2) Where one or more trade unions desire to enter into an agency shop agreement with an employer in respect of workers of one or more descriptions, or a joint negotiating panel desires an employer to enter into such an agreement with one or more

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trade unions represented on the panel, and (in either case) the employer is unwilling to do so, either the trade union or trade unions or the joint negotiating panel or the employer may make an application to the Industrial Court, specifying—

(*a*) the description or descriptions of workers in question, and

(*b*) the employer and the trade union or trade unions who (if the agreement were made as desired) would be the parties to the agreement.

(3) If, on any such application, the Industrial Court is satisfied—

(*a*) that it is not precluded by section 13(4) or section 15(3) of this Act from entertaining the application, and

(*b*) that the trade union (or, as the case may be, each of the trade unions) or the joint negotiating panel specified in the application is recognised by the employer as having negotiating rights, or rights corresponding to negotiating rights, in respect of workers of the description or descriptions so specified,

the Court shall request the Commission to proceed in accordance with the next following section with a view to the taking of a ballot on the question whether an agency shop agreement should be made between the employer and the trade union or trade unions specified in the application.

(4) In this Part of this Act "rights corresponding to negotiating rights" means rights to participate, on behalf of one or more descriptions of workers who are not employees, in negotiations relating to those workers, with a view to the conclusion or modification of one or more collective agreements.

Ballot as to agency shop agreement.

12.—(1) If, on a request made by the Industrial Court under section 11(3) of this Act, it appears to the Commission that, in relation to workers of one or more descriptions specified in the application,—

(*a*) there is a question in dispute in respect of which an application has been or could be made to the Industrial Court under section 45 of this Act, and that, until that question has been settled, an agency shop agreement is likely to be ineffective, or

(*b*) such a question, although not yet in dispute, is likely to become the subject of a dispute if an agency shop agreement is made in pursuance of the application, and would in that event be likely, until settled, to make that agreement ineffective,

the Commission shall make a report to that effect to the Industrial Court, and to the trade union, trade unions, joint

negotiating panel or employer who made the application, and shall not proceed further in relation to that request.

(2) Subject to the preceding subsection, the Commission shall determine—

(*a*) whether the ballot should extend to all workers falling within the range specified in the application (whether that range consists of one description or two or more descriptions of workers) or should be limited to part of that range, and

(*b*) whether (in addition to workers falling within that range or part of it, as the case may be) the ballot should extend to workers of one or more descriptions not specified in the application, in respect of whom the trade union (or, as the case may be, each of the trade unions) or the joint negotiating panel is recognised by the employer as having negotiating rights or rights corresponding to negotiating rights,

and shall make a report to the Industrial Court specifying the description or descriptions of workers who, in accordance with the conclusions of the Commission under this subsection, are to take part in the ballot.

(3) The Commission shall also determine whether the ballot is to be taken by the Commission or is to be taken under the supervision of the Commission by some other body, and in either case what arrangements would best secure that the ballot will be properly conducted, and that the voting in the ballot will be kept secret.

(4) The Commission shall thereupon arrange for the ballot to be taken in accordance with their conclusions under subsections (2) and (3) of this section, and shall report the result of the ballot to the Industrial Court and to the employer and the trade union or trade unions specified in the application under section 11 of this Act and, where the applicant was a joint negotiating panel, to that panel.

Effect of ballot under s. 12.

13.—(1) If the result of a ballot as reported to the Industrial Court under section 12 of this Act is that either a majority of the workers eligible to vote in the ballot or not less than two-thirds of those who voted in it have voted in favour of an agency shop agreement, then it shall be the duty of the employer to take all such action as is requisite on his part for the purposes—

(*a*) of entering into an agency shop agreement in respect of the description or descriptions of workers comprised in the ballot, and

(*b*) after such an agreement has been made, of carrying out the agreement so long as it remains in force.

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(2) It shall be an unfair industrial practice for any person (including any trade union or other organisation of workers or any official of a trade union or of such an organisation)—

(*a*) by calling, organising, procuring or financing a strike, or threatening to do so, or

(*b*) by organising, procuring or financing any irregular industrial action short of a strike, or threatening to do so,

knowingly to induce or attempt to induce an employer not to perform a duty imposed on the employer by the preceding subsection.

(3) If the result of a ballot as reported by the Commission to the Industrial Court is that neither a majority of the workers eligible to vote in the ballot nor two-thirds of those who voted in it have voted in favour of an agency shop agreement, the Industrial Court shall make an order directing—

(*a*) that no agency shop agreement in respect of workers of any description comprised in the ballot shall, during the period of two years beginning with the date on which that result was reported by the Commission to the Court, be made between the employer and the trade union (or, as the case may be, any of the trade unions) specified in the application in pursuance of which the ballot was taken, and

(*b*) that any such agency shop agreement purporting to be made between those parties during that period shall be void.

(4) Where the Industrial Court has made an order under subsection (3) of this section, the Court shall not entertain any application under section 11 of this Act if—

(*a*) it is made before the end of the period specified in that subsection, and

(*b*) it relates (wholly or in part) to workers of any descriptions comprised in the ballot.

Application for ballot on continuance of agency shop agreement.

14.—(1) Subject to the following provisions of this section, at any time when an agency shop agreement is in force any worker to whom the agreement applies may make an application to the Industrial Court under this section.

(2) The Industrial Court shall not entertain such an application unless the Court is satisfied that not less than one-fifth of the workers to whom the agreement for the time being applies have signified in writing their concurrence in the application.

(3) In the case of an agency shop agreement made in pursuance of a ballot taken under section 12 of this Act, the Industrial Court shall not entertain an application under this

section if the application is made before the end of the period of two years beginning with the date on which the result of that ballot was reported by the Commission to the Court.

(4) Where the Industrial Court entertains an application under this section, the Court shall request the Commission to arrange for a ballot to be taken on the question whether the agency shop agreement to which the application relates should continue in force.

(5) The persons eligible to vote in the ballot shall be the workers to whom the agency shop agreement for the time being applies.

Ballot on application under s. 14.

15.—(1) For the purpose of complying with a request made by the Industrial Court under section 14 of this Act with respect to an agency shop agreement, the Commission shall determine whether the ballot is to be taken by the Commission or is to be taken under the supervision of the Commission by some other body, and in either case what arrangements would best secure—

(*a*) that the ballot will be properly conducted, and

(*b*) that the voting in the ballot will be kept secret,

and shall arrange for the ballot to be taken accordingly.

(2) After a ballot has been taken under this section, the Commission shall report the result of the ballot to the Industrial Court and to each of the parties to the agency shop agreement.

(3) If the result of the ballot, as so reported, is that neither a majority of the workers eligible to vote in the ballot nor two-thirds of those who voted in it have voted in favour of continuance of the agency shop agreement, the Industrial Court shall make an order rescinding the agreement, and directing—

(*a*) that no agency shop agreement in respect of workers of any description comprised in the ballot shall, during the period of two years beginning with the date on which the result of the ballot was so reported, be made between the employer and the trade union (or, as the case may be, any of the trade unions) who were parties to the agency shop agreement to which the ballot related, and

(*b*) that any such agency shop agreement purporting to be made between those parties during that period shall be void;

and during that period the Industrial Court shall not entertain any application under section 11 of this Act if it appears to the Court to relate (wholly or in part) to a description of workers which is substantially the same as the description, or one of the descriptions, of workers comprised in the ballot.

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(4) If the result of the ballot, as so reported, is that either a majority of the workers eligible to vote in the ballot or not less than two-thirds of those who voted in it have voted in favour of continuance of the agency shop agreement, the Industrial Court shall not entertain any application under section 14 of this Act if—

(*a*) it relates to the same agency shop agreement, and

(*b*) it is made before the end of the period of two years beginning with the date on which the result of the ballot was so reported.

Pressure to anticipate result of ballot.

16.—(1) It shall be an unfair industrial practice for an employer, by instituting, carrying on, organising, procuring or financing a lock-out, or threatening to do so, knowingly to induce or attempt to induce a trade union or joint negotiating panel, or any other person, to refrain from making an application under section 11 or section 14 of this Act.

(2) It shall be an unfair industrial practice for any person (including any trade union or any official of a trade union) by calling, organising, procuring or financing a strike or threatening to do so, or by organising, procuring or financing any irregular industrial action short of a strike, or threatening to do so,—

(*a*) except in the circumstances specified in section 13(1) of this Act, knowingly to induce or attempt to induce an employer to enter into an agency shop agreement in respect of workers of any description after an application relating (wholly or in part) to workers of that description has been made under section 11 of this Act, or

(*b*) knowingly to induce or attempt to induce an employer to refrain from making an application under section 11 of this Act.

Approved closed shop agreements

Special provisions for approval of closed shop agreement.

17.—(1) In this Act "approved closed shop agreement" means an agreement which—

(*a*) is made between one or more employers and one or more trade unions, or between an organisation of employers and one or more trade unions;

(*b*) is an agreement whereby it is agreed, in respect of workers of one or more descriptions specified in the agreement, that their terms and conditions of employment shall include a condition that every such worker, if he is not already a member of that trade union or of one of those trade unions, as the case may be, must become such a member unless specially exempted; and

(*c*) is made in accordance with proposals approved by an order of the Industrial Court made under Schedule 1 to this Act which is for the time being in force.

(2) Where an approved closed shop agreement is for the time being in force, the following provisions of this section shall have effect notwithstanding anything in section 5(1)(*b*) of this Act.

(3) A worker to whom the agreement applies, and who is not specially exempted, shall not have the right, as between himself and an employer to whom the agreement applies, to refuse to be a member of the trade union, or (as the case may be) of one of the trade unions, with which the agreement was made.

(4) A worker to whom the agreement applies, and who is specially exempted, shall not have the right, as between himself and an employer to whom the agreement applies, to refuse to be a member of that trade union, or of one of those trade unions, as the case may be, unless he agrees to pay appropriate contributions to a charity.

(5) In accordance with subsections (3) and (4) of this section, it shall not be an unfair industrial practice for an employer to whom an approved closed shop agreement applies, or for a person acting on behalf of such an employer,—

(*a*) to dismiss, penalise or otherwise discriminate against a worker to whom the agreement applies, on the grounds that he is not a member of the trade union, or (as the case may be) of one of the trade unions, with which the agreement was made and has refused to become or has been excluded from being such a member, or, if specially exempted, has refused or failed to pay appropriate contributions to a charity, or

(*b*) to refuse to engage a worker who, if engaged by him, would be a worker to whom the agreement applies, on the grounds that he is not a member of that trade union or of one of those trade unions, as the case may be, and refuses to become or has been excluded from being such a member.

(6) Where a worker to whom the agreement applies, and who is specially exempted, has agreed to pay appropriate contributions to a charity, and requests his employer to deduct the contributions from his remuneration and pay them on his behalf, then so long as that request remains in force—

(*a*) he shall not be regarded for the purposes of subsection (5)(*a*) of this section as having refused to pay the contributions to the charity, and

(*b*) any failure on the part of the employer to comply with the request shall not be regarded as a failure on the part of the worker to pay the contributions.

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(7) In this section "specially exempted" and "appropriate contributions" have the meanings assigned to them by Part IV of Schedule 1 to this Act, and any reference to an employer to whom an approved closed shop agreement applies shall be construed in accordance with Part V of that Schedule.

Supplementary provisions as to approved closed shop agreements.

18.—(1) For the purposes of section 17(5)(*a*) of this Act a worker, notwithstanding that he has not expressly refused to become a member of a trade union with which an approved closed shop agreement was made, shall be treated as having so refused if he does not duly apply for membership of that trade union before the end of the relevant period or if, having applied for such membership, he withdraws that application.

(2) For the purposes of section 17(5) of this Act a worker shall be treated as having been excluded from being a member of a trade union if (but only if)—

(*a*) his application for membership of the trade union has been rejected, or he has been expelled from membership of the trade union, and

(*b*) the conditions specified in the next following subsection are fulfilled.

(3) The conditions referred to in subsection (2)(*b*) of this section are that—

(*a*) under the rules of the trade union the worker has a right of appeal against his rejection or expulsion, and

(*b*) his appeal has been heard and dismissed or has been withdrawn, or the time for appealing has expired without his having exercised that right.

(4) Subject to the next following subsection, in this section "the relevant period" in the case of an approved closed shop agreement—

(*a*) in relation to a person who, on the date on which the agreement takes effect, is a worker to whom the agreement applies, means the period of three months from that date, and

(*b*) in relation to any other person, means the period of one month from the date on which he begins to be employed as a worker to whom the agreement applies.

(5) The Secretary of State may by order made by statutory instrument provide that, in so far as any approved closed shop agreement relates to workers engaged, or seeking to be engaged, in work of a description specified in the order, subsection (4) of this section shall have effect as if, for the references to three months and one month, there were substituted references to such shorter periods as are specified in the order.

Contracts of Employment Act 1963 PART II

Minimum periods of notice to terminate contracts of employment. 1963 c. 49.

19.—(1) In subsections (1) and (2) of section 1 of the Contracts of Employment Act 1963 (which specify the minimum periods of notice required to terminate the contracts of employment of employees who have been continuously employed for twenty-six weeks or more), for the words " twenty-six ", in each place where they occur, there shall be substituted the word " thirteen ".

(2) In paragraph (*c*) of subsection (1) of that section (which specifies the minimum period of notice where an employee's period of continuous employment is five years or more), after the words " five years or more " there shall be inserted the words " but less than ten years, and ", and after that paragraph there shall be inserted the following paragraphs:—

" (*d*) shall be not less than six weeks' notice if his period of continuous employment is ten years or more but less than fifteen years, and

(*e*) shall be not less than eight weeks' notice if his period of continuous employment is fifteen years or more ".

Written particulars of terms of employment.

20.—(1) In section 4 of the Contracts of Employment Act 1963 (which requires employers to give to their employees a written statement containing particulars of their terms of employment), for sub-paragraph (i) of subsection (1)(*d*) there shall be substituted the following sub-paragraph:—

" (i) entitlement to holidays, including public holidays, and holiday pay (the particulars given being sufficient to enable the employee's entitlement, including any entitlement to accrued holiday pay on the termination of employment, to be precisely calculated) ".

(2) Every statement given to an employee under subsection (1) of that section after the commencement of this Act shall include a note—

(*a*) indicating the nature of the employee's rights under section 5 of this Act, including, where an agency shop agreement or an approved closed shop agreement is in force which applies to him, the effect of that agreement on those rights, and

(*b*) specifying by description or otherwise a person to whom the employee can apply for the purpose of seeking redress of any grievance relating to his employment, and the manner in which any such application should be made, and

(*c*) either explaining the steps consequent upon any such application or referring to a document which is reasonably accessible to the employee and which explains those steps.

PART II
Supplementary provisions as to Contracts of Employment Act 1963.
1963 c. 49.

21.—(1) The provisions of Part I of Schedule 2 to this Act shall have effect with respect to the Contracts of Employment Act 1963, and with respect to the operation of the amendments and other provisions made by sections 19 and 20 of this Act.

(2) Subsections (1) to (9) of section 4 of the Contracts of Employment Act 1963 (as amended) shall have effect as set out in Part II of that Schedule.

Unfair dismissal

Right of employee not to be unfairly dismissed.

22.—(1) In every employment to which this section applies every employee shall have the right not to be unfairly dismissed by his employer; and accordingly, in any such employment, it shall be an unfair industrial practice for an employer to dismiss an employee unfairly.

(2) This section applies to every employment except in so far as its application is excluded by or under any of sections 27 to 31 of this Act.

(3) In the following provisions of this Part of this Act "the claimant" means the employee who claims that he has been unfairly dismissed by his employer.

Meaning of "dismissal".

23.—(1) In this Act "dismissal" and "dismiss" shall be construed in accordance with the following provisions of this section.

(2) Subject to the next following subsection, for the purposes of this Act an employee shall be taken to be dismissed by his employer if, but only if,—

(*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.

(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 Act 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 subsection (3) of this section—

(*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 the preceding paragraph, expires at the time when the employer's notice expires.

(5) In this Act " 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.

24.—(1) In determining for the purposes of this Act 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

(*b*) that it was a reason falling within the next following subsection, 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 subsection (1)(*b*) of this section the reference to a reason falling within this subsection 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.

PART II

(3) Where the employer has fulfilled the requirements of subsection (1) of this section, then, subject to sections 25 and 26 of this Act, the question whether the dismissal was fair or unfair shall be determined in accordance with the following provisions of this section.

(4) For the purposes of this Act 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 had exercised, or had indicated his intention to exercise, any of the rights conferred on the employee by section 5(1) of this Act.

(5) 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 that he had exercised, or had indicated his intention to exercise, any of the rights conferred on him by section 5(1) of this Act, 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 Act the dismissal shall be regarded as unfair.

(6) Subject to subsections (4) and (5) of this section, 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 in the circumstances he acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and that question shall be determined in accordance with equity and the substantial merits of the case.

(7) In this section, 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.

PART II
Dismissal in connection with a lock-out.

25.—(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 section 24 of this Act shall apply as if in that section, 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.

(3) In this section 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 section—

(*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 " means the employer who dismissed the claimant;

and in this subsection " comparable employees ", in relation to the claimant, 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 the claimant.

Dismissal in connection with a strike or other industrial action.

26.—(1) The provisions of this section 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 in any irregular industrial action short of a strike.

(2) If the reason or principal reason for the dismissal was that the claimant 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 section referred to as " the original employer "), who also took part in that action, were not dismissed for taking part in it, or

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(*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 claimant was not offered such re-engagement,

and that the reason (or, if more than one, the principal reason) for which the claimant was selected for dismissal, or not offered re-engagement, was his having taken action to which the next following subsection applies.

(3) This subsection applies to any action on the part of the claimant which consisted of exercising, or indicating his intention to exercise, any of the rights conferred on him by section 5(1) of this Act.

(4) In this section any reference to the date of dismissal—

(*a*) where the claimant'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;

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 cases

Excluded classes of employment.

27.—(1) Section 22 of this Act 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 claimant) 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;

1946 c. 22.

(*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; 1962 c. 47.

(*f*) any employment under a contract which normally involves employment for less than twenty-one hours weekly.

(2) Section 22 of this Act does not apply to any employment where under his contract of employment the employee ordinarily works outside Great Britain.

(3) For the purposes of subsection (2) of this section 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 section " close relative ", in relation to a person, means that person's father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister.

(5) The preceding provisions of this section shall have effect subject to any order made under section 29 of this Act.

Qualifying period and upper age limit.

28. Subject to the next following section, section 22 of this Act 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 104 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.

Supplementary provisions relating to ss. 27 and 28.

29.—(1) Paragraph (*a*) of section 27(1) and section 28 of this Act 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 that the employee had exercised, or had indicated his intention to exercise, any of the rights conferred on him by section 5(1) of this Act.

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(2) The Secretary of State may by order made by statutory instrument add to or vary any of the provisions of sections 27 and 28 of this Act or exclude the operation of any of those provisions.

(3) No order shall be made under this section 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.

30. Section 22 of this Act 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 the commencement of this Act 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 section in relation to that contract.

Exclusion in respect of procedure agreement.

31.—(1) An application may be made jointly to the Industrial Court by all the parties to a procedure agreement to make an order designating that agreement for the purposes of this section.

(2) On any such application the Industrial Court may make such an order if the Court is satisfied—

(*a*) that every organisation of workers which is a party to the procedure agreement is an independent organisation;

(*b*) that the procedure 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 procedure agreement applies;

(*d*) that the remedies provided by the procedure 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 Act;

(*e*) that the procedures provided by the procedure 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 procedure agreement are such that it can be determined with reasonable certainty whether a particular employee is one to whom the procedure agreement applies or not.

(3) Where a procedure agreement is designated by an order under this section which is for the time being in force, the provisions of that procedure agreement relating to dismissal shall have effect in substitution for any rights under section 22 of this Act; and accordingly that section 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 procedure agreement apply.

Revocation of exclusion under s. 31.

32.—(1) At any time when an order under section 31 of this Act is in force, any of the parties to the procedure agreement to which the order relates, or the Secretary of State, may apply to the Industrial Court for the order to be revoked.

(2) If on any such application the Industrial Court is satisfied either—

(*a*) that it is the desire of all the parties to the procedure agreement that the order should be revoked, or

(*b*) that the procedure agreement has ceased to fulfil all the conditions specified in section 31(2) of this Act,

the Industrial Court shall revoke the order by a further order made under this section.

(3) Any order made under this section may contain such transitional provisions as appear to the Industrial Court to be appropriate in the circumstances, and, in particular, may direct—

(*a*) that, notwithstanding section 31(3) of this Act, an employee shall not be excluded from his rights under section 22 of this Act 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 section takes effect, and shall have an extended time for presenting a complaint under Part VI of this Act 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 procedure 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 VI of this Act) as may be specified in the order.

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(4) Where an order under this section contains any such transitional provisions, an industrial tribunal, in determining a complaint to which those provisions apply, shall comply with any directions given in accordance with subsection (3)(*b*) of this section.

Supplementary

Pressure on employer to infringe rights of workers.

33.—(1) In determining, for the purposes of this Part of this Act, any question as to the reason, or principal reason, for which a worker was dismissed, penalised, or otherwise discriminated against, or any question whether the reason or principal reason for which a worker was dismissed was a reason fulfilling the requirements of section 24(1)(*b*) of this Act 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 means of any action to which this section applies, was exercised on the employer to dismiss, penalise or otherwise discriminate against the worker, and

(*b*) any such question shall be determined as if no such pressure had been exercised.

(2) This section applies to action of any of the following descriptions, that is to say—

(*a*) calling, organising, procuring or financing a strike, or threatening to do so;

(*b*) organising, procuring or financing any irregular industrial action short of a strike, or threatening to do so.

(3) It shall be an unfair industrial practice for any person (including any trade union or other organisation of workers or any official of a trade union or of such an organisation) to take any action to which this section applies, if the purpose or principal purpose for which that action is taken is—

(*a*) knowingly to induce an employer, or a person acting on behalf of an employer, to take any action which (whether by virtue of subsection (1) of this section or otherwise) is or would be an unfair industrial practice, in accordance with section 5(2) or section 22(1) of this Act, on the part of the employer or of the person acting on the employer's behalf, or

(*b*) knowingly to induce an employer to comply with any provision in an agreement in so far as that provision is void by virtue of subsection (1) of section 7 of this Act, or knowingly to induce an employer to enter into an agreement consisting of or including a provision which would be void by virtue of that subsection, or

(*c*) knowingly to induce an employer to comply with a provision declared to be void by an order of the Industrial Court under section 7(3) of this Act, or

(*d*) knowingly to induce an employer or an employers' association to join in making an application under Part I of Schedule 1 to this Act.

(4) In this Act "irregular industrial action short of a strike" means any concerted course of conduct (other than a strike) which, in contemplation or furtherance of an industrial dispute,—

(*a*) is carried on by a group of workers with the intention of preventing, reducing or otherwise interfering with the production of goods or the provision of services, and

(*b*) in the case of some or all of them, is carried on in breach of their contracts of employment or (where they are not employees) in breach of their terms and conditions of service.

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COLLECTIVE BARGAINING

Effect of collective agreements

Presumptions relating to collective agreements.

34.—(1) Every collective agreement which—

(*a*) is made in writing after the commencement of this Act, and

(*b*) does not contain a provision which (however expressed) states that the agreement or part of it is intended not to be legally enforceable,

shall be conclusively presumed to be intended by the parties to it to be a legally enforceable contract.

(2) Where a collective agreement made in writing after the commencement of this Act contains a provision which (however expressed) states that a part of the agreement specified in that provision is intended not to be legally enforceable, the agreement, with the exception of that part, shall be conclusively presumed to have been intended by the parties to it to be a legally enforceable contract.

Presumptions relating to proceedings of voluntary joint negotiating bodies.

35.—(1) This section applies to any joint body consisting of representatives of one or more organisations of workers and of representatives either of one or more employers or of one or more organisations of employers or of a combination of one or more employers and one or more organisations of employers, with or without other persons, and established by or under a collective

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agreement (whether made before or after the commencement of this Act) for either or both of the following purposes, that is to say—

(*a*) regulating the terms and conditions of employment of workers of one or more descriptions;

(*b*) determining, in relation to workers of one or more descriptions, any matters for which a procedure agreement can provide.

(2) The following presumptions shall apply to any proceedings of a joint body to which this section applies, where those proceedings take place after the commencement of this Act.

(3) For the purposes of any such proceedings it shall be conclusively presumed that the parties (whether organisations of workers, employers or organisations of employers) for the time being represented on that joint body (in this section referred to as " the constituent parties ") intend to authorise it, in relation to matters falling within the scope of its functions, to make decisions having effect as legally enforceable contracts made on behalf of the constituent parties.

(4) Any decision made by any such body in any such proceedings, in relation to matters falling within the scope of its functions, if the decision—

(*a*) is duly recorded in writing by or on behalf of that body, and

(*b*) as so recorded, does not contain a provision which (however expressed) states that the decision is intended not to be legally enforceable,

shall be conclusively presumed to be intended by that body to have effect as a legally enforceable contract made on behalf of the constituent parties.

(5) In this section " decision " includes any award or resolution, by whatever name called, and " functions ", in relation to a decision of a joint body established by or under a collective agreement, means its functions under that agreement as it has effect at the time of that decision.

Breach of collective agreement.

36.—(1) It shall be an unfair industrial practice for any party to a collective agreement—

(*a*) where the agreement is a legally enforceable contract, to break the agreement, or

(*b*) where part (but not the whole) of the agreement is a legally enforceable contract, to break that part of the agreement.

(2) Where a collective agreement made after the commencement of this Act, or part of such a collective agreement, is a legally enforceable contract, it shall be an unfair industrial practice for any party to the agreement not to take all such steps as are reasonably practicable for the purposes—

(*a*) of preventing persons acting or purporting to act on behalf of that party from taking any action contrary to an undertaking given by that party and contained in the collective agreement or in that part of the agreement, as the case may be;

(*b*) where the party in question is an organisation, of preventing members of the organisation from taking any such action; and

(*c*) where any action has been taken as mentioned in paragraph (*a*) or paragraph (*b*) of this subsection, of securing that the action is not continued and that further action as mentioned in those paragraphs does not occur.

(3) For the purposes of subsection (2) of this section action taken by a person other than the party who gave the undertaking in question (in this subsection referred to as "the contracting party") shall be regarded as action taken contrary to the undertaking if either—

(*a*) it is action which, if taken by the contracting party, would have been a breach of the undertaking by the contracting party, or

(*b*) it consists in doing that which, in accordance with the undertaking, was not to be done, or in not doing that which, in accordance with the undertaking, was to be done.

Remedial action where procedure agreement non-existent or defective

Application to Industrial Court relating to procedural provisions.

37.—(1) The Secretary of State, or any other party to whom this section applies, may make an application to the Industrial Court with respect to any particular unit of employment on the grounds that the unit suffers from one or both of the following defects, that is to say—

(*a*) the absence of a procedure agreement, or the unsuitability of such procedure agreement as may exist for the purpose of settling disputes or grievances promptly and fairly;

(*b*) where a procedure agreement is in existence, recourse to industrial action (whether consisting of lock-outs, strikes or irregular industrial action short of a strike) contrary to the terms or intentions of that agreement.

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(2) The parties to whom this section applies in relation to a unit of employment, other than the Secretary of State, are the employer and—

(*a*) any trade union which the employer recognises as having negotiating rights in relation to that unit, and

(*b*) where a procedure agreement is in existence which applies to that unit, any trade union (not falling within the preceding paragraph) which is a party to that agreement.

(3) Before the Secretary of State makes an application under this section with respect to a unit of employment, he shall consult the parties appearing to him, in relation to that unit, to be the parties to whom this section applies.

(4) The Industrial Court shall not entertain an application made under this section by a party other than the Secretary of State unless that party, before making the application, has given notice to the Secretary of State of the proposal to make it; and, where such a notice has been given,—

(*a*) the Secretary of State shall offer such advice and assistance to the party giving the notice, and to such other parties as appear to him to be directly concerned, as he may consider appropriate with a view to promoting agreement between them with respect to the matters to which the application would relate, and for that purpose may refer any question relating to those matters to the Commission for examination by them, but

(*b*) nothing in the preceding paragraph shall prevent the party giving the notice from making an application under this section at any time after the notice has been given.

(5) Subject to the last preceding subsection, if on an application under this section it appears to the Industrial Court that there are reasonable grounds for believing that the unit of employment to which the application relates suffers from one or both of the defects specified in subsection (1) of this section and that, by reason of its doing so,—

(*a*) the development or maintenance of orderly industrial relations in that unit has been seriously impeded, or

(*b*) there have been substantial and repeated losses of working time in that unit,

the Court shall refer to the Commission the question whether the unit does suffer from one or both of those defects and, if so, what remedy (if any) in accordance with the provisions of section 40 of this Act is to be recommended

(6) In this section and in sections 38 to 42 of this Act "unit of employment" means an undertaking or part of an undertaking.

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Provision for extending scope of reference under s. 37(5).

38.—(1) Where on a reference under section 37(5) of this Act it appears to the Commission—

(*a*) that the unit of employment to which the reference relates does suffer from one or both of the defects specified in subsection (1) of that section, and

(*b*) that, if the remedy lies in bringing new provisions into effect, or in the revision of any provisions of an existing procedure agreement, the new or revised provisions ought to apply to a larger unit of employment of which that unit forms part,

the Commission, after consultation with the employer and with any trade union appearing to the Commission to be likely to be affected, may formulate proposals as to the unit of employment to which the new or revised provisions should apply.

(2) On formulating any proposals under the preceding subsection the Commission shall—

(*a*) transmit the proposals to the Industrial Court, and

(*b*) cause notice of the proposals to be given or published as may appear to the Commission to be appropriate for bringing them to the attention of persons who, in the opinion of the Commission, would be affected by them.

(3) At any time within the period of two weeks from the date (or, if more than one, the latest date) on which notice is given or published under subsection (2)(*b*) of this section, any person claiming to be affected by the proposals may apply to the Industrial Court to consider the proposals, having regard to the grounds on which the reference to the Commission was made; and on any such application the Industrial Court may extend the scope of the reference so as to apply to the larger unit specified in the proposals, or direct that the scope of the reference shall remain unchanged, as the Court may consider appropriate.

(4) If no such application as is mentioned in subsection (3) of this section is made within the period specified in that subsection, the Industrial Court shall confirm the proposals and extend the scope of the reference in accordance with them.

(5) In this section and in sections 39 and 40 of this Act any reference to the revision of any provisions is a reference to any one or more of the following, that is to say, the alteration of all or any of those provisions, the deletion of any of those provisions and the addition of any further provisions, and " revised " shall be construed accordingly.

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Action by Commission for promoting settlement of question referred under s. 37.

39.—(1) If on a reference under section 37 of this Act it appears to the Commission—

(*a*) that the unit of employment to which the reference relates (or, where the scope of the reference has been extended so as to apply to a larger unit, the unit of employment to which it originally related) suffers from one or both of the defects specified in subsection (1) of that section, and

(*b*) that the remedy lies in bringing new provisions into effect in relation to that unit or the larger unit, as the case may be, or in relation to a part of that unit or larger unit, or in revising any provisions of an existing procedure agreement which applies to that unit or larger unit,

the Commission shall determine what parties are to be the parties to any further proceedings on that reference.

(2) The parties so determined shall be—

(*a*) those appearing to the Commission to be parties to any existing procedure agreement which applies to that unit or larger unit, as the case may be, and

(*b*) such other persons (if any), being either employers, employers' associations or trade unions, as in the Commission's opinion would be appropriate parties to any such new or revised provisions as are mentioned in subsection (1)(*b*) of this section;

and in the following provisions of this section and in sections 40 and 41 of this Act " the parties to the reference " means the parties so determined in accordance with this subsection.

(3) The Commission shall thereupon promote and assist discussions between the parties to the reference with a view to obtaining their agreement on new or revised provisions (such as are mentioned in subsection (1)(*b*) of this section) so formulated as to be capable of having effect as a legally enforceable contract.

(4) If, at any time after the Commission have made a determination under subsection (1) of this section, the Commission are satisfied that the purposes for which the reference was made have been or will be adequately fulfilled without continuing the proceedings on that reference, the Commission shall make a report to that effect to the Industrial Court; and, where such a report has been made, the Industrial Court, on the application of any of the parties to the reference, may withdraw the reference.

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Recommendations of Commission on reference under s. 37

40.—(1) Where, on a reference under section 37 of this Act, the Commission have proceeded in accordance with section 39(3) of this Act and the reference has not been withdrawn, the Commission shall prepare a report setting out such new or revised provisions as in their opinion are required and would be capable of having effect as a legally enforceable contract.

(2) In so far as the parties to the reference have agreed on any such provisions in pursuance of section 39(3) of this Act, the Commission's recommendations shall (so far as that agreement extends) be in accordance with the provisions so agreed, but may include other provisions in addition to them.

(3) The Commission shall transmit their report under this section to the Industrial Court, and shall furnish a copy of it to each of the parties to the reference.

Order of Industrial Court on report under s. 40.

41.—(1) At any time before the end of the period of six months beginning with the date on which a report under section 40 of this Act is transmitted to the Industrial Court, any employer or trade union included among the parties to the reference may apply to the Industrial Court for an order under this section.

(2) Where such an application is made, then, unless the Industrial Court is satisfied that an order under this section is not necessary for the purpose of securing acceptance and observance of the provisions recommended in the report, the Court shall make an order—

(*a*) defining the unit of employment to which those provisions are to apply, and

(*b*) specifying the parties on whom they are to be binding,

and directing that, on and after a date specified in the order and so long thereafter as the order remains in force, those provisions shall have effect as a legally enforceable contract, as if a contract consisting of those provisions had been made between those parties.

Supplementary provisions as to reports and orders under ss. 40 and 41.

42.—(1) Where in consequence of a reference under section 37 of this Act (in this subsection referred to as "the prior reference") a report has been transmitted by the Commission to the Industrial Court under section 40 of this Act, then, during the period of two years beginning with the date on which that report was transmitted, the Court shall not entertain any application under section 37 of this Act if it relates—

(*a*) to the same unit of employment as the prior reference, or

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(*b*) to a unit of employment which in the opinion of the Court does not substantially differ from that unit,

unless the Court is satisfied that there are special reasons for entertaining the application within that period.

(2) If all the parties specified in an order under section 41 of this Act, in accordance with subsection (2)(*b*) of that section, make a joint application to the Industrial Court to revoke the order, or to vary it in a manner specified in the application, the Court shall revoke the order or (as the case may be) shall vary it in accordance with the application.

(3) If one of those parties applies to the Industrial Court to revoke the order, but the other parties do not concur in the application, and the Court is satisfied that the order is no longer necessary for the purpose of securing observance of the provisions to which the order relates, the Court shall revoke the order.

(4) Before determining an application under subsection (3) of this section, the Industrial Court may, if it thinks fit, request the Commission to examine, and report to the Court on, the question whether the condition mentioned in that subsection is fulfilled.

Extension of ss. 37 to 42 to composite unit.

43.—(1) In this section "composite unit" means a unit extending to two or more associated undertakings and consisting of the aggregate, or part of the aggregate, of those undertakings; "associated undertakings" means undertakings of two or more associated employers; and "the employers", in relation to a composite unit, means the employers to whose undertakings the unit extends.

(2) The provisions of sections 37 to 42 of this Act shall have effect in relation to a composite unit as they have effect in relation to a unit of employment within the meaning of those sections as if—

(*a*) any reference in those sections, except in section 38(1)(*b*), to a unit of employment were a reference to a composite unit;

(*b*) in sections 37(2) and 38(1) the references to the employer were references to the employers; and

(*c*) in section 38(1)(*b*), for the words "larger unit of employment of which that unit forms part" there were substituted the words "larger composite unit extending to the same group of associated undertakings (or to a larger group of associated undertakings which includes those undertakings) and consisting of the whole or a larger part of the aggregate of that group or larger group".

44. In this Act— Definitions relating to bargaining structure.

(*a*) "bargaining unit" means those employees or descriptions of employees of an employer, or of two or more associated employers, in relation to whom collective bargaining, in respect of such matters as are not dealt with under more extensive bargaining arrangements, is, or could appropriately be, carried on by an organisation of workers or a joint negotiating panel, or partly by an organisation of workers and partly by a joint negotiating panel;

(*b*) "negotiating rights" means rights, recognised by an employer or by two or more associated employers, to participate, on behalf of all or some of the employees comprised in a bargaining unit, in negotiations relating to that unit, with a view to the conclusion or modification of one or more collective agreements;

(*c*) "sole bargaining agent", in relation to a bargaining unit, means the organisation of workers or joint negotiating panel having negotiating rights in relation to that unit to the exclusion of all other organisations of workers and joint negotiating panels, except in respect of matters which are dealt with under more extensive bargaining arrangements;

(*d*) "joint negotiating panel" means a body consisting of representatives of two or more organisations of workers which is established for purposes of collective bargaining and is authorised by or on behalf of those organisations to enter into collective agreements on their behalf;

(*e*) "joint negotiating panel of trade unions" means a joint negotiating panel where all the organisations of workers represented on it are trade unions; and

(*f*) "more extensive bargaining arrangements", in relation to any particular employees or descriptions of employees of an employer, or of two or more associated employers, means arrangements for collective bargaining in respect of matters common to those employees or descriptions of employees and to other employees or descriptions of employees, whether of the same employer or employers or of one or more different employers.

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Application to Industrial Court for reference as to recognition of sole bargaining agent.

45.—(1) An application may be made to the Industrial Court for the reference to the Commission, for examination by them, of the following two questions relating to the employees of an employer, or to the employees of two or more associated employers, that is to say—

(*a*) whether a specified group of those employees should, as a whole, be recognised (or, if already recognised, should continue to be recognised) by the employer or employers as a bargaining unit, or a part or parts of such a specified group should be so recognised (or should continue to be so recognised) as a separate bargaining unit or separate bargaining units; and

(*b*) whether, for any bargaining unit which is or should be so recognised, a sole bargaining agent should be recognised by the employer or employers and, if so, what organisation of workers or what joint negotiating panel (whether already in existence or to be formed for the purpose) should be the sole bargaining agent for that bargaining unit.

(2) Subject to the next following subsection, an application under this section relating to the employees of one or more employers may be made—

(*a*) by one or more trade unions, or

(*b*) by the employer or (as the case may be) by any of the employers, or

(*c*) by the employer, or (as the case may be) any of the employers, jointly with one or more trade unions, or

(*d*) by the Secretary of State.

(3) Before making an application under this section with respect to a group of employees, the Secretary of State shall consult—

(*a*) their employer or employers, and

(*b*) any organisation of workers or joint negotiating panel appearing to him to be directly concerned in the matters to which the proposed application would relate.

(4) The Industrial Court shall not entertain an application made under this section otherwise than by the Secretary of State unless, before the application was made, notice of the proposal to make it had been given to the Secretary of State; and where such a notice has been given—

(*a*) the Secretary of State shall offer such advice and assistance to the party or parties giving the notice, and to such other parties as appear to him to be directly concerned, as he may consider appropriate with a

view to promoting agreement between them with respect to the matters to which the application would relate, and for that purpose may refer any question relating to those matters to the Commission for examination by them, but

(*b*) nothing in the preceding paragraph shall prevent the party or parties giving the notice from making an application under this section at any time after the notice has been given.

(5) In this section and in section 46 of this Act " group ", in relation to an application relating to the employees of an employer or of two or more associated employers, means a group consisting either of all those employees or of such of them as fall within one or more descriptions specified in the application.

Reference to Commission on application under s. 45.

46.—(1) If on an application under section 45 of this Act the Industrial Court is satisfied—

(*a*) that it is not precluded by section 53(5) of this Act from entertaining the application ;

(*b*) that the employer or employers to whom the application relates, and the organisations of workers appearing to the Court to have, or to be seeking, negotiating rights in respect of the whole or part of the specified group of employees, have endeavoured to settle the questions proposed to be referred to the Commission and, for that purpose, have made adequate use of any facilities for conciliation available to them, whether in pursuance of section 45(4) of this Act or otherwise ; and

(*c*) that reference of those questions to the Commission is necessary with a view to promoting a satisfactory and lasting settlement of them,

the Industrial Court, subject to the next following subsection, shall refer those questions to the Commission.

(2) The Industrial Court shall not be required to refer any questions under this section to the Commission on an application relating to a group of employees if it appears to the Court that—

(*a*) a reference under this section relating to that group of employees, or relating to a group of employees which in the opinion of the Court does not substantially differ from it, was under consideration by the Commission within the period of two years ending with the date of the application, and

(*b*) in the circumstances a further reference on that application after so short an interval would not be justified.

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Withdrawal or extension of reference under s. 46.

47.—(1) At any time after a reference has been made to the Commission under section 46 of this Act, and before the Commission have reported on it, the Commission may apply to the Industrial Court to withdraw the reference on the grounds that a satisfactory and lasting settlement of the questions in issue has already been reached; and, if the Industrial Court is satisfied that such a settlement has been reached, the Court shall withdraw the reference.

(2) If, at any time after such a reference has been made and before the Commission have reported on it, it appears to the Commission that, with a view to promoting a satisfactory and lasting settlement of the questions in issue, it is necessary or expedient to extend the scope of the reference, the Commission, subject to the next following subsection, may formulate proposals for extending it; and, where the Commission have formulated any such proposals, they shall—

(*a*) transmit the proposals to the Industrial Court, and

(*b*) cause notice of the proposals to be given or published as may appear to the Commission to be appropriate for bringing them to the attention of persons who in the opinion of the Commission would be affected by them.

(3) No such proposals shall provide for extending the scope of a reference to any employer unless he is an associated employer in relation to the employer or employers to whom the reference originally related.

(4) At any time within the period of two weeks from the date (or, if more than one, the latest date) on which notice of any such proposals is given or published under subsection (2)(*b*) of this section, any person claiming to be affected by the proposals may apply to the Industrial Court to consider whether the proposals are necessary or expedient; and on any such application the Industrial Court may—

(*a*) extend the scope of the reference in accordance with the proposals, or

(*b*) extend its scope to a lesser extent than that proposed, or

(*c*) direct that its scope shall remain unchanged,

as the Court may consider appropriate.

(5) If no such application as is mentioned in subsection (4) of this section is made within the period specified in that subsection, the Industrial Court shall confirm the proposals and extend the scope of the reference in accordance with them.

Report of Commission on reference under s. 46.

48.—(1) On the reference of any questions to the Commission under section 46 of this Act, where the reference has not been withdrawn, the Commission shall examine those questions

(including, in a case where the scope of the reference has been extended by the Industrial Court, any matter falling within the scope of the reference as so extended) and shall prepare a report setting out their recommendations.

(2) The Commission shall transmit any such report to the Industrial Court, and shall furnish copies of it—

(*a*) to the Secretary of State;

(*b*) to the employer (or, if more than one, each employer) comprised in the reference, either as originally made or as extended; and

(*c*) to every trade union or other organisation of workers appearing to the Commission to be directly concerned in the questions specified in the reference,

and shall arrange for the report to be published in such manner as the Commission may consider appropriate.

(3) For the purpose of determining, with respect to any group of employees, what recommendation to make in a report under this section on the question specified in section 45(1)(*a*) of this Act, the Commission shall consider the extent to which different descriptions of employees in that group have interests in common, having regard in particular, in relation to each such description of employees, to—

(*a*) the nature of the work which they are employed to do, and

(*b*) their training, experience and professional or other qualifications.

(4) A report of the Commission under this section shall not recommend the recognition of an organisation of workers or joint negotiating panel as sole bargaining agent for a bargaining unit unless it appears to the Commission—

(*a*) that the organisation, or (in the case of a joint negotiating panel) every organisation represented on it, is an independent organisation of workers;

(*b*) that its recognition as sole bargaining agent for that bargaining unit would be in accordance with the general wishes of the employees comprised in that bargaining unit, and would promote a satisfactory and lasting settlement of the questions in issue in the reference.

(5) Without prejudice to subsection (4) of this section, the Commission, in determining whether to make such a recommendation in a report under this section, shall in particular consider—

(*a*) whether the organisation or panel in question has or would have the support of a substantial proportion of the employees comprised in the bargaining unit, and

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(*b*) whether it has or would have such resources, and is or would be so organised, as to enable it effectively to represent those employees.

(6) Where it appears to the Commission that a joint negotiating panel ought to be formed in relation to a bargaining unit, the Commission, before recommending any organisation of workers for inclusion among those to be represented on the panel, shall in particular consider whether—

(*a*) it has or would have the support of a substantial proportion of the employees comprised in that bargaining unit, or of a substantial proportion of the employees of one or more descriptions comprised in that unit, and

(*b*) it has or would have such resources, and is or would be so organised, as to enable it to participate effectively in the work of the panel.

(7) Any recommendation contained in such a report may be made subject to such conditions as the Commission think fit; and in particular (but without prejudice to the generality of this subsection) any such condition—

(*a*) may require an organisation of workers recommended for recognition as sole bargaining agent for a bargaining unit, or for inclusion in a joint negotiating panel so recommended, to make sufficient trained officials available for purposes of collective bargaining, or

(*b*) may require any organisation of workers so recommended to undertake not to make or pursue any claim to be recognised as sole bargaining agent for any other bargaining unit consisting (wholly or in part) of employees of any employer to whom the recommendation relates.

(8) Where the Commission determine, in making a report under this section, to recommend the recognition of an organisation of workers or joint negotiation panel as sole bargaining agent for a bargaining unit, and it appears to the Commission that there are in existence more extensive bargaining arrangements which will be applicable to the employees comprised or to be comprised in that bargaining unit, the recommendation—

(*a*) may specify the more extensive bargaining arrangements in question, and

(*b*) may be made subject to the reservation that the organisation or panel, at any time when it is recognised as sole bargaining agent in pursuance of the recommendation, shall not have exclusive negotiating rights in respect of matters which are at that time being dealt

with under the specified arrangements or which are then the subject of a collective agreement negotiated under those arrangements.

Application to Industrial Court for ballot as to recognition of sole bargaining agent.

49.—(1) Where in a report under section 48 of this Act the Commission have recommended (with or without a reservation under subsection (8) of that section) that a particular organisation of workers or joint negotiating panel should be recognised by one or more employers as sole bargaining agent for a bargaining unit, then at any time before the end of the period of six months beginning with the date on which that report is transmitted by the Commission to the Industrial Court, either—

(*a*) the employer (or, if more than one, any of the employers), or

(*b*) subject to the next following subsection, the organisation of workers or joint negotiating panel, as the case may be,

may make an application to the Industrial Court under this section.

(2) No application under this section shall be made—

(*a*) in respect of a recommendation relating to an organisation of workers, unless at the time of the application it is a trade union, or

(*b*) in respect of a recommendation relating to a joint negotiating panel, unless at that time it is a joint negotiating panel of trade unions.

(3) If, on any such application, the Industrial Court is satisfied that the recommendation of the Commission was unconditional, or that any conditions subject to which it was made have been sufficiently complied with, the Court shall request the Commission to make arrangements for a ballot of employees comprised in the bargaining unit to be taken on the question whether the recommendation should be made binding.

(4) For the purpose of complying with any such request of the Industrial Court, the Commission shall determine whether the ballot is to be taken by the Commission or is to be taken under the supervision of the Commission by some other body, and in either case what arrangements would best secure that the ballot is properly conducted and that the voting in the ballot will be kept secret, and shall arrange for the ballot to be taken accordingly.

(5) The Commission shall secure that the ballot is not taken until such period as in their opinion is adequate has elapsed since the publication of the report under section 48 of this Act.

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(6) After a ballot has been taken under this section, the Commission shall report the result of the ballot to the Industrial Court, to the employer or employers and to the trade union or joint negotiating panel, as the case may be.

Order of Industrial Court for recognition of sole bargaining agent.

50.—(1) Where the result of a ballot taken under section 49 of this Act, as reported by the Commission to the Industrial Court, is that a majority of the employees voting in the ballot voted in favour of the proposal that the recommendation should be made binding, the Industrial Court shall make an order—

(*a*) defining the bargaining unit, and

(*b*) specifying the employer or employers and the trade union or joint negotiating panel, as the case may be,

and directing that, as from the end of the period of two months beginning with the date on which the order is made, and so long as the order continues to be in force, that trade union or joint negotiating panel shall be recognised as sole bargaining agent for that bargaining unit.

(2) If the recommendation of the Commission is subject to a reservation under section 48(8) of this Act, the order of the Industrial Court shall specify the more extensive bargaining arrangements, as specified in that recommendation, and shall be made subject to the like reservation.

(3) If, at any time when an order under this section is in force,—

(*a*) an organisation specified in the order as being a trade union ceases to be a trade union, or

(*b*) a joint negotiating panel specified in the order ceases to be a joint negotiating panel of trade unions,

the order shall thereupon cease to have effect.

(4) Where the bargaining unit defined by an order under this section is the same as, or includes the whole or part of, the bargaining unit defined by a previous order under this section which is for the time being in force, the Industrial Court, on making the subsequent order, shall revoke the previous order.

Withdrawal of recognition of sole bargaining agent

Application to Industrial Court with a view to withdrawal of recognition.

51.—(1) Any person claiming to be an employee for the time being comprised in a bargaining unit may make an application to the Industrial Court on the grounds that an organisation of workers or joint negotiating panel specified in the application—

(*a*) is for the time being recognised by one or more employers so specified as sole bargaining agent for that bargaining unit, or

(*b*) is required, by an order under section 50 of this Act which is for the time being in force, to be so recognised,

and that (in either case) the organisation of workers or joint negotiating panel does not adequately represent the employees comprised in that bargaining unit, or does not adequately represent a particular section of it to which the applicant belongs.

(2) The Industrial Court shall not entertain an application under this section, in a case where there is no order for the time being in force under section 50 of this Act requiring the organisation of workers or joint negotiating panel in question to be recognised as mentioned in the preceding subsection, unless the Court is satisfied that not less than one-fifth of the employees for the time being comprised in the bargaining unit have signified in writing their concurrence in the application.

(3) The Industrial Court shall not entertain an application under this section, in a case where such an order as is mentioned in subsection (2) of this section is for the time being in force, unless—

(*a*) the application is made after the end of the period of two years beginning with the date on which the order was made, and

(*b*) the Court is satisfied that not less than two-fifths of the employees for the time being comprised in the bargaining unit have signified in writing their concurrence in the application.

Action in pursuance of application under s. 51.

52.—(1) On any application under section 51 of this Act, the Industrial Court (subject to subsections (2) and (3) of that section) shall request the Commission to proceed in accordance with the following provisions of this section.

(2) The Commission shall examine the grounds of the application and shall endeavour to promote and assist such discussions as in the opinion of the Commission might lead to a settlement of the matters to which the application relates; and for that purpose the Industrial Court shall allow such time as appears to the Court to be reasonable in the circumstances.

(3) If, before that time expires, a settlement of the matters to which the application relates has been reached, the Commission shall report that fact to the Industrial Court, indicating the nature of the settlement.

(4) If, when that time expires, no such settlement has been reached and the application has not been withdrawn, the Industrial Court, with a view to testing the grounds of the

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(*a*) there should be one ballot, extending to all employees for the time being comprised in the bargaining unit to which the application relates, or

(*b*) for the purpose of taking ballots that bargaining unit should be divided into two or more sections, and in the case of each section a separate ballot should be taken of all the employees for the time being comprised in that section.

(5) For the purpose of determining the question specified in subsection (4) of this section the Commission shall consider the extent to which different descriptions of employees comprised in the bargaining unit have interests in common, having regard in particular, in relation to each such description of employees, to—

(*a*) the nature of the work which they are employed to do, and

(*b*) their training, experience and professional or other qualifications.

(6) In relation to the ballot, or (if more than one) each of the ballots, to be taken as mentioned in subsection (4) of this section the Commission shall determine whether it is to be taken by the Commission or is to be taken under the supervision of the Commission by some other body, and in either case what arrangements would best secure that the ballot will be properly conducted and that the voting in the ballot will be kept secret; and the Commission shall thereupon arrange for one or more ballots to be taken in accordance with their conclusions under subsections (4) and (5) of this section and under this subsection.

(7) The question on which any ballot under this section is to be taken—

(*a*) where it extends to all employees for the time being comprised in the bargaining unit to which the application relates, shall be whether the organisation of workers or joint negotiating panel specified in the application should continue to be recognised as sole bargaining agent for that bargaining unit;

(*b*) where it is limited to a particular section of that bargaining unit, shall be whether that section should continue to be included in a bargaining unit for which that organisation of workers or joint negotiating panel is so recognised.

(8) After one or more ballots have been taken under this section in pursuance of an application under section 51 of this

Act, the Commission shall report the results of the ballot or ballots to the Industrial Court, to the applicant, and to every employer, organisation of workers or joint negotiating panel specified in that application.

Order of Industrial Court on report under s. 52.

53.—(1) Where a ballot under section 52 of this Act has been taken on the question specified in subsection (7)(*a*) of that section, and the result of the ballot, as reported by the Commission to the Industrial Court, is that a majority of the employees voting in the ballot voted against the continuance of the organisation of workers or joint negotiating panel as sole bargaining agent for the bargaining unit, the Industrial Court shall make an order directing the employer or employers—

(*a*) to cease to recognise the organisation of workers or joint negotiating panel as sole bargaining agent for the bargaining unit, and

(*b*) not to accord such recognition to it at any time during the period of two years beginning with the date on which the result of the ballot was reported by the Commission to the Industrial Court.

(2) Where such a ballot, limited to a section of a bargaining unit, has been taken on the question specified in subsection (7)(*b*) of section 52 of this Act, and the result of the ballot, as reported by the Commission to the Industrial Court, is that a majority of the employees voting in the ballot voted against that section continuing to be included in the bargaining unit for which the organisation of workers or joint negotiating panel is recognised as sole bargaining agent, the Industrial Court shall make an order directing the employer or employers—

(*a*) to cease to recognise the organisation of workers or joint negotiating panel as sole bargaining agent for that section of the bargaining unit, and

(*b*) not to accord such recognition to it at any time during the period of two years beginning with the date on which the result of the ballot was reported by the Commission to the Industrial Court.

(3) On making an order under this section—

(*a*) with respect to a bargaining unit in respect of which an order under section 50 of this Act is for the time being in force, or

(*b*) with respect to a section of such a bargaining unit,

the Industrial Court shall revoke or (as the case may be) vary the order under section 50 of this Act as the Court may consider appropriate, having regard to the effect of the order made under this section.

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(4) Any order under this section shall take effect as from the end of the period of two months beginning with the date on which the order is made.

(5) Where the Industrial Court has made an order under this section, the Court shall not entertain any application under section 45 of this Act if—

(*a*) the application is made by the organisation of workers in respect of which the order was made, or, where the order was made in respect of a joint negotiating panel, the application is made by an organisation of workers represented on that panel,

(*b*) the bargaining unit to which the application relates consists (wholly or in part) of a description of employees comprised in the bargaining unit, or section of a bargaining unit, in respect of which the order was made, and

(*c*) the application is made before the end of the period specified in subsection (1)(*b*) or subsection (2)(*b*) of this section, as the case may be.

Supplementary

Unfair industrial practices relating to pending questions as to recognition of sole bargaining agent.

54.—(1) Where notice of a proposal to make an application to the Industrial Court under section 45 of this Act has been given in pursuance of subsection (4) of that section, any question which—

(*a*) in accordance with that notice would be one of the questions proposed to be referred to the Commission, or

(*b*) on an application made in pursuance of that notice is one of the questions proposed to be so referred, or

(*c*) is referred to the Commission on such an application, or by virtue of section 47 of this Act is included in a reference made to the Commission on such an application,

shall be a question to which this section applies.

(2) Any question to which this section applies and which falls within paragraph (*b*) or paragraph (*c*) of the preceding subsection shall for the purposes of this section be taken to be pending at any time before whichever of the following events first occurs, that is to say—

(*a*) the Industrial Court determines not to refer any question to the Commission on the application mentioned in those paragraphs;

(*b*) a reference made to the Commission on that application is withdrawn;

(*c*) the period of six months, beginning with the date on which the report of the Commission on such a reference is transmitted to the Industrial Court, expires.

(3) A question to which this section applies, and which falls within paragraph (*a*), but neither within paragraph (*b*) nor within paragraph (*c*), of subsection (1) of this section, shall for the purposes of this section be taken to be pending at any time before such date as may be certified by the Secretary of State to be either—

(*a*) the date on which agreement was reached as to the matters to which the proposed application would have related, or

(*b*) the date on which, whether in consequence of a refusal of his offer of advice and assistance or otherwise, it became apparent that no such agreement was likely to be reached without an application to the Industrial Court.

(4) At any time when a question to which this section applies is pending in accordance with subsection (2) or subsection (3) of this section it shall be an unfair industrial practice—

(*a*) for any employer directly concerned in a dispute relating to that question to institute, carry on, organise, procure or finance a lock-out in furtherance of that dispute, or to threaten to do so, or

(*b*) for any person (including any trade union or other organisation of workers or any official of a trade union or of such an organisation) to call, organise, procure or finance a strike, or organise, procure or finance any irregular industrial action short of a strike, in furtherance of such a dispute, or to threaten to do so.

Unfair industrial practices in connection with collective bargaining procedures.

55.—(1) Where an order of the Industrial Court under section 50 of this Act is for the time being in force requiring an employer to recognise a trade union or joint negotiating panel as sole bargaining agent for a bargaining unit, it shall (subject to the following provisions of this section) be an unfair industrial practice for the employer—

(*a*) to carry on any collective bargaining in relation to that bargaining unit with any other organisation of workers, or

(*b*) not to take all such action, by way of or with a view to carrying on collective bargaining with that trade union

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or joint negotiating panel, as might reasonably be expected to be taken by an employer ready and willing to carry on such collective bargaining.

(2) Where such an order as is mentioned in subsection (1) of this section relates to a joint negotiating panel, it shall not by virtue of that subsection be an unfair industrial practice for the employer specified in the order to carry on collective bargaining with one or more of the trade unions represented on the panel, if he does so in pursuance of an agreement whereby the panel has consented to his carrying on such collective bargaining.

(3) Where such an order as is mentioned in subsection (1) of this section is for the time being in force, it shall be an unfair industrial practice for any person (including any trade union or other organisation of workers or any official of a trade union or of such an organisation)—

(*a*) by calling, organising, procuring or financing a strike, or threatening to do so, or

(*b*) by organising, procuring or financing any irregular industrial action short of a strike, or threatening to do so,

knowingly to induce or attempt to induce the employer specified in the order to do anything which, by virtue of subsection (1) of this section, is or would be an unfair industrial practice on the part of that employer.

(4) Subsections (1) to (3) of this section shall have effect in relation to an order made under section 50 of this Act in respect of two or more associated employers, but for that purpose shall have effect as if—

(*a*) any reference in those subsections to the employer were a reference to any of those employers;

(*b*) in subsections (1)(*a*) and (2) references to carrying on collective bargaining were references to carrying on such bargaining either alone or jointly with any other employer or employers comprised in the order;

(*c*) in subsection (1)(*b*) references to carrying on collective bargaining were references to carrying on such bargaining jointly with the other employer or employers comprised in the order.

(5) In relation to an order which is made subject to a reservation under section 50(2) of this Act, nothing in paragraph (*a*) or paragraph (*b*) of subsection (1) of this section shall be construed as applying to collective bargaining in respect of matters which, by virtue of that reservation, are excepted from the exclusive negotiating rights of the sole bargaining agent.

(6) At any time before the end of the period of two years beginning with the date on which the Commission transmit a report to the Industrial Court under section 48 of this Act, it shall be an unfair industrial practice for any person (including any trade union or other organisation of workers or any official of a trade union or of such an organisation), by any such means as are mentioned in paragraphs (*a*) and (*b*) of subsection (3) of this section, knowingly to induce or attempt to induce an employer—

(*a*) to recognise, as sole bargaining agent for the bargaining unit to which the report related, an organisation of workers or joint negotiating panel which was not recommended for such recognition in that report, whether the report recommended some other organisation or panel as sole bargaining agent for that bargaining unit or not, or

(*b*) to carry on, with any organisation of workers or joint negotiating panel which was not recommended as mentioned in the preceding paragraph, any collective bargaining in relation to employees of any description comprised in the bargaining unit to which that report related.

(7) Where the Industrial Court has made an order under section 53 of this Act, it shall be an unfair industrial practice for any person (including any trade union or other organisation of workers or any official of the trade union or of such an organisation), by any such means as are mentioned in paragraphs (*a*) and (*b*) of subsection (3) of this section, knowingly to induce or attempt to induce the employer to whom the order relates not to comply with the order.

(8) It shall be an unfair industrial practice for an employer, by instituting, carrying on, organising, procuring or financing a lock-out, or threatening to do so, knowingly to induce or attempt to induce any person to refrain from making an application under section 45 or section 51 of this Act.

General duty of employers to disclose information.

56.—(1) For the purposes of all the stages of collective bargaining between an employer and trade union representatives, it shall (subject to section 158 of this Act) be the duty of the employer to disclose to those representatives all such information relating to his undertaking as is in the possession of the employer, or of any associated employer, and is both—

(*a*) information without which the trade union representatives would be to a material extent impeded in carrying on collective bargaining with him, and

(*b*) information which it would be in accordance with good industrial relations practice that the employer should disclose to them for purposes of collective bargaining.

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(2) In determining, for the purposes of subsection (1)(*b*) of this section, what would be in accordance with good industrial relations practice, regard shall be had to the principles relating to disclosure of information by employers set out in the code of practice for the time being in force under Part I of this Act, so far as those principles are applicable to the circumstances of the collective bargaining in question, but not so as to exclude any other evidence of what that practice is.

(3) Where an employer is required by virtue of this section to disclose any information to trade union representatives, the disclosure of it shall be, or be confirmed, in writing if they so request.

(4) In the performance of his duty under subsection (1) of this section an employer shall not be required—

(*a*) to produce, or allow inspection of, any document (other than a document prepared for the purpose of conveying or confirming the information) or to make a copy of or extracts from any document, or

(*b*) to compile or assemble any information where the compilation or assembly of it would involve an amount of work or expenditure out of reasonable proportion to the value of the information in the conduct of the collective bargaining.

(5) In this section "trade union representative" means any person who, being either—

(*a*) an official of a trade union, or

(*b*) any other person authorised by or on behalf of a trade union to carry on the collective bargaining in question,

is a person or one of the persons with whom, as representing the workers or some of the workers to whom it relates, the collective bargaining is carried on.

Disclosure of information to employees by major employers.

57.—(1) In the case of any undertaking in which, on any date within a financial year of the undertaking, more than 350 persons, other than excepted persons, are employed (whether they are employed at the same place or at different places) it shall, subject to the following provisions of this section, be the duty of the employer who is the owner of the undertaking to issue in respect of that financial year a statement under this section to persons employed in the undertaking.

(2) Every such statement shall be issued not later than six months after the end of the financial year to which it relates.

(3) Every such statement shall be in writing and (subject to section 158 of this Act) shall contain all such information as may be required in accordance with regulations made by the Secretary of State under this section, and shall be issued to

every person who, on the date on which it is issued, is employed in the undertaking to which the statement relates, and who is not on that date an excepted person.

(4) Regulations under this section may provide that, in such cases and to such extent as may be prescribed, the information to be contained in a statement issued under this section by a company—

(*a*) where the company owns other undertakings, shall extend to those other undertakings, and

(*b*) where there are other companies which are associated employers in relation to the company, shall extend to the undertakings of those other companies.

(5) Subject to the next following subsection, regulations under this section may confer such exemptions from the duty imposed by subsection (1) of this section as the Secretary of State may consider necessary or expedient.

(6) Any such exemptions shall be so conferred either—

(*a*) on employers of a prescribed description, or

(*b*) in respect of matters of a prescribed description, or

(*c*) on employers of a prescribed description in respect only of matters of a prescribed description, or

(*d*) on one or more particular employers specified in the regulations, but only in respect of matters of a description prescribed in relation to them.

(7) The Secretary of State may by order made by statutory instrument provide that, in subsection (1) of this section, for the words "350" (or such other number as may have been substituted for those words by virtue of this subsection) there shall be substituted such other number (whether larger or smaller) as may be specified in the order.

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

(9) In this section "financial year", in relation to an undertaking, means a period for which the accounts of the undertaking are made up (including any such period part of which is before and part after the commencement of this Act); and for the purposes of this section a person is an excepted person on any date if on that date—

(*a*) he is employed under a contract which normally involves employment for less than twenty-one hours weekly, or

(*b*) he has been employed in the undertaking in question for less than thirteen weeks, or

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(*c*) he is outside Great Britain and is a person who under his contract of employment ordinarily works outside Great Britain.

Notification of procedure agreements.

58.—(1) The Secretary of State may make regulations requiring every employer of any description specified in the regulations, or requiring any particular employer so specified,—

(*a*) to inform the Secretary of State whether he is a party to any procedure agreement, or has agreed with any employees of his or their representatives to observe the terms of any procedure agreement to which he is not a party;

(*b*) if there is any procedure agreement to which he is a party, to furnish to the Secretary of State a copy of it if it is in writing, or, if it is not in writing, to furnish to the Secretary of State the prescribed particulars of it;

(*c*) if there is any procedure agreement to which he is not a party, whose terms he has agreed to observe as mentioned in paragraph (*a*) of this section, to furnish to the Secretary of State a copy of it if it is in writing (or, if a copy of it has already been furnished to the Secretary of State, to furnish to the Secretary of State such particulars of it as are sufficient to identify it) or, if it is not in writing to furnish to the Secretary of State the prescribed particulars of it;

(*d*) to inform the Secretary of State which descriptions of his employees fall within the terms of each procedure agreement of which the employer is required by the regulations to furnish a copy or particulars, and which (if any) descriptions of his employees do not fall within the terms of any such procedure agreement and, in the case of each such description, to inform the Secretary of State how many employees of his fell within that description on the date by reference to which the information is given.

(2) Any regulations made in pursuance of the preceding subsection may specify a period within which any requirement imposed by the regulations in accordance with that subsection is to be complied with; but that period, in relation to an employer, shall not be less than six months from the earliest date on which that requirement becomes applicable to him in accordance with the regulations.

(3) Any such regulations may also require any employer who, in accordance with the provisions contained in the regulations by virtue of subsection (1) of this section, is required to furnish any information to the Secretary of State, to furnish to him, on the occurrence of any act or event of a prescribed description

relating to that information, such further information, or such copies of, or particulars of, procedure agreements, as may be prescribed.

(4) Any provisions contained in the regulations by virtue of subsection (3) of this section, which require anything to be done by an employer on the occurrence of an act or event of a prescribed description, may specify a period (not being less than six months from the date on which that act or event occurs) within which that requirement is to be complied with.

(5) Any regulations made under this section may confer such exemptions as the Secretary of State considers appropriate in respect of employers who, in pursuance of any voluntary arrangements, have furnished to the Secretary of State information, copies or particulars of a kind prescribed by the provisions of the regulations conferring the exemptions, as being equivalent or approximately equivalent to those required by the regulations in accordance with subsection (1) of this section.

Offences in connection with regulations under s. 58.

59.—(1) Any person who does not comply with any requirement of any regulations for the time being in force under section 58 of this Act which applies to him, or, where a period is specified in accordance with subsection (2) or subsection (4) of that section, does not comply with any such requirement within the period so specified, shall be guilty of an offence.

(2) Any person who—

(*a*) in furnishing any information or particulars which he is required by any regulations under section 58 of this Act to furnish, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, or

(*b*) where he is required by any such regulations to furnish a copy of a procedure agreement, produces as a copy of it a document which to his knowledge is not an accurate and complete copy of it,

shall be guilty of an offence.

(3) Any person guilty of an offence under subsection (1) of this section shall be liable on summary conviction to a fine not exceeding £100; and any person guilty of an offence under subsection (2) of this section shall be liable on summary conviction to a fine not exceeding £400.

Machinery for negotiation under other enactments.

60.—(1) This section applies to any enactment (not being an enactment contained in this Act) by virtue of which a body corporate, either directly or through any subsidiary body corporate, is required to take any steps with a view to the establishment of machinery for the settlement by negotiation of terms and conditions of employment.

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(2) In so far as any enactment to which this section applies is inconsistent with an order made by the Industrial Court under this Part of this Act which is for the time being in force, the order of the Industrial Court shall prevail and the enactment in question shall have effect subject to it.

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REGISTRATION AND CONDUCT OF TRADE UNIONS, EMPLOYERS' ASSOCIATIONS AND CERTAIN OTHER ORGANISATIONS

Introductory

Trade unions and other organisations of workers.

61.—(1) In this Act (subject to section 86) "organisation of workers" means an organisation (whether permanent or temporary) which either—

(*a*) consists wholly or mainly of workers of one or more descriptions and is an organisation whose principal objects include the regulation of relations between workers of that description or those descriptions and employers or organisations of employers, or

(*b*) is a federation of workers' organisations.

(2) In this Act (subject to section 86) "federation of workers' organisations" means an organisation (whether permanent or temporary) whose membership consists wholly or mainly—

(*a*) of constituent or affiliated organisations each of which either fulfils the conditions specified in subsection (1)(*a*) of this section or is an organisation for the time being entered in the special register to be maintained under the following provisions of this Part of this Act, or itself consists wholly or mainly of constituent or affiliated organisations which fulfil those conditions or are for the time being entered in that register, or

(*b*) of representatives of such constituent or affiliated organisations as are mentioned in the preceding paragraph,

and which (in either case) is an organisation whose principal objects include the regulation of relations between workers and employers or between workers and organisations of employers, or include the regulation of relations between its constituent or affiliated organisations.

(3) In this Act "trade union" means an organisation of workers which is for the time being registered as a trade union under this Act.

62.—(1) In this Act " organisation of employers " 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 objects include the regulation of relations between employers or individual proprietors of that description or those descriptions and workers or organisations of workers, or

(*b*) is a federation of employers' organisations.

(2) In this Act " federation of employers' organisations " means an organisation (whether permanent or temporary) whose membership consists wholly or mainly—

(*a*) of constituent or affiliated organisations each of which fulfils the conditions specified in subsection (1)(*a*) of this section or itself consists wholly or mainly of constituent or affiliated organisations which fulfil those conditions, or

(*b*) of representatives of such constituent or affiliated organisations as are mentioned in the preceding paragraph,

and which (in either case) is an organisation whose principal objects include the regulation of relations between employers or individual proprietors and workers or between employers or individual proprietors and organisations of workers, or include the regulation of relations between its constituent or affiliated organisations.

(3) In this Act " employers' association " means an organisation of employers which is for the time being registered as an employers' association under this Act.

(4) In this Part of this Act " individual proprietor " means an individual who is the owner of an undertaking.

Registrars of Trade Unions and Employers' Associations

Appointment of Chief Registrar and assistant registrars.

63.—(1) Her Majesty may appoint an officer to be known as the Chief Registrar of Trade Unions and Employers' Associations (in this Act referred to as " the Chief Registrar "), who shall hold office during Her Majesty's pleasure.

(2) The Chief Registrar may make any one or more of the following appointments of assistant registrars of trade unions and employers' associations, that is to say, he may appoint—

(*a*) one or more such assistant registrars for England and Wales, and

(*b*) one such assistant registrar for Scotland.

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(3) The provisions of Part I and (so far as applicable) Parts IV and V of Schedule 3 to this Act shall have effect with respect to the Chief Registrar and to assistant registrars appointed under this section.

(4) In this Act "the registrar", in relation to any matter authorised or required by or under this Act to be dealt with by the registrar, means—

(*a*) the Chief Registrar, or

(*b*) any assistant registrar appointed under this section who, in accordance with any general or special directions given by the Chief Registrar, is authorised or required to act in relation to that matter.

Annual report of Chief Registrar.

64. The Chief Registrar shall, as soon as practicable after the end of each calendar year, lay before each House of Parliament a report on his activities, and on the activities of assistant registrars appointed under this Part of this Act, during that year.

Principles as to conduct of organisations of workers, other than federations of workers' organisations

Guiding principles for organisations of workers.

65.—(1) The principles set out in the following provisions of this section shall be guiding principles in the conduct of every organisation of workers, other than federations of workers' organisations.

(2) Any person who applies for membership of the organisation, or of a branch or section of the organisation, and who—

(*a*) is a worker of the description, or (as the case may be) of one of the descriptions, of which, in accordance with the rules of the organisation, the organisation or that branch or section, as the case may be, is intended wholly or mainly to consist, or of which it wholly or mainly consists, and

(*b*) is appropriately qualified for employment as a worker of that description,

shall not, by way of any arbitrary or unreasonable discrimination, be excluded from membership of the organisation or of that branch or section of it.

(3) Every member of the organisation shall have the right, on giving reasonable notice and complying with any reasonable conditions, to terminate his membership of the organisation at any time.

(4) No member of the organisation, or of any branch or section of the organisation, shall, by way of any arbitrary or unreasonable discrimination, be excluded from—

(*a*) being a candidate for or holding any office in the organisation or in a branch or section of it;

(*b*) nominating candidates for any such office;

(*c*) voting in any election for any such office or in any ballot of members of the organisation or of a branch or section of it; or

(*d*) attending and taking part in meetings of the organisation or of any branch or section of the organisation.

(5) The voting in any ballot of members of the organisation, or of a branch or section of the organisation, shall be kept secret.

(6) In any ballot, and on any motion, in respect of which he is entitled to vote, every member of the organisation shall have a fair and reasonable opportunity of voting without interference or constraint.

(7) No member of the organisation shall be subjected by or on behalf of the organisation to any unfair or unreasonable disciplinary action; and in particular (but without prejudice to the generality of this subsection) no disciplinary action shall be taken against any member of the organisation by reason of his refusing or failing—

(*a*) to take any action which, in accordance with any provision of this Act, would constitute an unfair industrial practice on his part, or

(b) to take part in a strike which the organisation, or any other person, has called, organised, procured or financed otherwise than in contemplation or furtherance of an industrial dispute, or in such circumstances as, in accordance with any provision of this Act, to constitute an unfair industrial practice on the part of the organisation or of that person, or

(*c*) to take part in any irregular industrial action short of a strike which the organisation, or any other person, has organised, procured or financed as mentioned in paragraph (*b*) of this subsection.

(8) Except in respect of non-payment of any contribution which under the rules of the organisation he is required to pay, no member of the organisation shall be subjected to any disciplinary action by or on behalf of the organisation unless—

(*a*) he has had written notice of the charges brought against him and has been given a reasonable time to prepare his defence;

(*b*) he is afforded a full and fair hearing;

(*c*) a written statement of the findings resulting from the hearing is given to him; and

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(*d*) where under the rules of the organisation he has a right of appeal, his appeal has been heard or the time for appealing has expired without his having exercised that right.

(9) A person's membership of the organisation shall not be terminated unless reasonable notice of the proposal to terminate his membership, and of the reason for it, has been given to him.

(10) No restriction shall, whether by the rules of the organisation or otherwise, be placed on any member of the organisation in respect of his instituting, prosecuting or defending proceedings before any court or tribunal or giving evidence in any such proceedings.

(11) For the purposes of subsection (7) of this section, section 33(4) of this Act, and the definition of " strike " in section 167(1) of this Act, shall apply as if—

(*a*) in section 33(4) the words " in contemplation or furtherance of an industrial dispute ", and

(*b*) in the definition of " strike " the words " in contemplation or furtherance of an industrial dispute, whether they are parties to the dispute or not ",

were omitted.

Unfair industrial practices in connection with principles stated in s. 65.

66. It shall be an unfair industrial practice for any organisation of workers, or any official of or person acting on behalf of such an organisation, to take or threaten to take any action against any member of the organisation or other person in contravention of the principles set out in section 65 of this Act.

Registration of organisations of workers as trade unions

Organisations eligible for registration as trade unions.

67.—(1) Subject to the next following subsection, any organisation which—

(*a*) is an independent organisation of workers, and

(*b*) has power, without the concurrence of any parent organisation, to alter its own rules and to control the application of its own property and funds,

shall be eligible for registration as a trade union under this Act.

(2) A federation of workers' organisations shall not be eligible for such registration (notwithstanding that it fulfils the conditions specified in the preceding subsection) unless all the constituent or affiliated organisations of which it consists, or which are represented on it, are either trade unions or organisations for the time being entered in the special register.

(3) In this section " parent organisation ", in relation to an organisation of workers, means an organisation of which it is a branch or section.

Application for registration as trade union.

68.—(1) Any organisation of workers, whether formed before or after the passing of this Act, may apply to the registrar for registration as a trade union under this Act.

(2) Any such application shall be made in such form and manner as the registrar may require.

(3) Together with any such application there shall be sent to the registrar—

(*a*) a copy of the rules of the organisation and a list of its officers;

(*b*) the names and addresses of the branches (if any) of the organisation; and

(*c*) if the organisation has been in operation for more than a year before the date of the application, a statement setting out the like information as would be required to be contained in an annual return of the organisation under section 88 of this Act, if such a return were made on the date of the application.

(4) If on any such application the registrar is satisfied—

(*a*) that the body making the application is an organisation of workers and that it is eligible for registration as a trade union, and

(*b*) that the requirements of subsection (3) of this section have been complied with,

the registrar, subject to the next following subsection, shall register the organisation as a trade union under this Act and shall issue to it a certificate of such registration.

(5) Except as provided by section 79(5) of this Act, the registrar shall not register an organisation under this section except on payment of a fee of £25 or such other sum as may be prescribed.

Principles as to conduct of organisations of employers, other than federations of employers' organisations

Guiding principles for organisations of employers.

69.—(1) Any person who applies for membership of an organisation of employers, other than a federation of employers' organisations, and who is an employer or individual proprietor of the description, or (as the case may be) of one of the descriptions, of which, in accordance with its rules, the organisation is intended wholly or mainly to consist, or of which it wholly or

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mainly consists, shall not, by way of any arbitrary or unreasonable discrimination, be excluded from membership of the organisation.

(2) No member of the organisation shall be subjected by or on behalf of the organisation to any unfair or unreasonable disciplinary action; and in particular (but without prejudice to the generality of this subsection) no disciplinary action shall be taken against any member of the organisation by reason of his refusing or failing—

(*a*) to take any action which, in accordance with any provision of this Act, would constitute an unfair industrial practice on his part, or

(*b*) to institute or participate in a lock-out which the organisation, or any other person, has organised, procured or financed otherwise than in contemplation or furtherance of an industrial dispute, or in such circumstances as, in accordance with any provision of this Act, to constitute an unfair industrial practice on the part of the organisation or of that person.

(3) The principles set out in subsections (1) and (2) of this section, and those set out in subsections (3) to (6) and subsections (8) to 10) of section 65 of this Act shall be guiding principles in the conduct of every organisation of employers, other than federations of employers' organisations.

(4) For the purposes of this section, the definition of "lock-out" in section 167(1) of this Act shall apply as if the words "in contemplation or furtherance of an industrial dispute" and the words "whether parties to the dispute or not" were omitted.

Unfair industrial practices in connection with those principles.

70. It shall be an unfair industrial practice for any organisation of employers, or any official of or person acting on behalf of such an organisation, to take or threaten to take any action against any member of the organisation or other person in contravention of the principles referred to in section 69 of this Act.

Registration of organisations of employers as employers' associations

Organisations eligible for registration as employers' associations.

71.—(1) Any organisation of employers which has power, without the concurrence of any parent organisation, to alter its own rules and to control the application of its own property and funds shall be eligible for registration as an employers' association.

(2) In this section "parent organisation", in relation to an organisation of employers, means an organisation of which it is a branch or section.

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Application for registration as employers' association.

72.—(1) Any organisation of employers, whether formed before or after the passing of this Act, may apply to the registrar for registration as an employers' association under this Act.

(2) Any such application shall be made in such form and manner as the registrar may require.

(3) Together with any such application there shall be sent to the registrar—

(*a*) a copy of the rules of the organisation and a list of its officers;

(*b*) the names and addresses of the branches (if any) of the organisation; and

(*c*) if the organisation has been in operation for more than a year before the date of the application, a statement setting out the like information as would be required to be contained in an annual return of the organisation under section 88 of this Act, if such a return were made on the date of the application.

(4) If on any such application the registrar is satisfied—

(*a*) that the body making the application is an organisation of employers and that it is eligible for registration as an employers' association, and

(*b*) that the requirements of subsection (3) of this section have been complied with,

the registrar, subject to the next following subsection, shall register the organisation as an employers' association under this Act and shall issue to it a certificate of such registration.

(5) Except as provided by section 79(5) of this Act, the registrar shall not register an organisation under this section except on payment of a fee of £25 or such other sum as may be prescribed.

General provisions as to registration

Provisions as to certificates of registration.

73.—(1) A certificate of registration of an organisation as a trade union under this Act shall state whether it is registered as being a federation of workers' organisations or as being an organisation of workers other than such a federation.

(2) A certificate of registration of an organisation as an employers' association under this Act shall state whether it is registered as being a federation of employers' organisations or as being an organisation of employers other than such a federation.

(3) A certificate of registration of an organisation as a trade union or as an employers' association under this Act shall specify the name by which it is registered.

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(4) The name so specified—

(*a*) shall not be identical with the name by which another organisation is for the time being registered as a trade union or as an employers' association under this Act or by which an organisation is for the time being entered in the special register, and

(*b*) shall not be a name so nearly resembling the name by which another organisation is so registered or entered as, in the opinion of the registrar, to be likely to deceive.

Incorporation and vesting of property.

74.—(1) On the receipt by an organisation of a certificate of registration under this Act, the organisation—

(*a*) if it is not already a body corporate, shall become a body corporate by the name specified in the certificate, having perpetual succession and a common seal, or

(*b*) if it is already a body corporate, whether by the name specified in the certificate or by a different name, shall thereafter be a body corporate by the name so specified.

(2) The common seal of a trade union or an employers' association shall bear its registered name.

(3) On the incorporation of an organisation under this section, all property and funds, of whatsoever nature, for the time being held by any person in trust for the organisation shall vest in the organisation by virtue of this section and without further assurance; and any liability or obligation to which any person is for the time being subject in his capacity as a trustee for the organisation shall by virtue of this section be transferred to the organisation.

1895 c. 16.

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

(5) Any legal proceedings which are pending by or against the trustees of an organisation immediately before its incorporation under this section may be continued by or against the organisation in its registered name.

Examination and approval of rules by registrar.

75.—(1) As soon as practicable after issuing to an organisation a certificate of registration under this Act, the registrar shall examine the rules of the organisation; and if on such examination it appears to him that the rules are defective in that—

(*a*) in the case of a trade union, they are in any way inconsistent with the principles set out in section 65 of this Act, or

(*b*) in the case of an employers' association, they are in any way inconsistent with the principles referred to in section 69 of this Act, or

(*c*) in either case, they do not comply with the requirements set out in Schedule 4 to this Act,

the registrar shall serve notice on the organisation, indicating what alterations in the rules are needed for the purpose of remedying the defect.

(2) Where the registrar serves a notice under the preceding subsection, he shall fix a reasonable period for the organisation to alter its rules in accordance with the notice and to submit them as altered to him for his approval, and the notice shall specify the period fixed by him under this subsection.

(3) If an organisation submits its rules to the registrar before the end of the period specified in a notice served under subsection (1) of this section, but it appears to the registrar that the rules have not been altered so as to comply with the requirements of the notice, the registrar may, if he thinks fit, allow to the organisation a further reasonable period for it to make the required alterations and to submit the rules to him as further altered.

(4) Except as provided by the next following section, the registrar shall not approve the rules of an organisation under this Act unless—

(*a*) he is satisfied that they are not defective as mentioned in subsection (1) of this section, and

(*b*) where he has served a notice under that subsection, they have been submitted to him, altered as required by that notice, before the end of the period specified in the notice or any further period allowed under subsection (3) of this section.

Application to Industrial Court as to approval of rules.

76.—(1) The registrar may apply to the Industrial Court for an order directing the registration of an organisation as a trade union or an employers' association under this Act to be cancelled on the grounds—

(*a*) that the organisation has not submitted its rules to him within the period specified in a notice served under subsection (1) of section 75 of this Act, or within a further period allowed under subsection (3) of that section or under this section, or

(*b*) that the rules submitted to him by the organisation were defective as mentioned in subsection (1) of that section and that the defect was not remedied within the period so specified or within any further period so allowed.

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(2) If, on any such application, the Industrial Court finds that the grounds of the application are well-founded, the Court shall either—

(*a*) make an order allowing to the organisation a further period for altering its rules and submitting them as altered to the registrar, or

(*b*) make an order directing the registrar to cancel the registration of the organisation as a trade union or an employers' association under this Act,

as the Court considers appropriate in the circumstances.

(3) Where a trade union or employers' association has submitted its rules to the registrar within the period specified in a notice served under subsection (1) of section 75 of this Act, or within a further period allowed under subsection (3) of that section or under this section, but the registrar has not approved the rules, the trade union or employers' association may apply to the Industrial Court for an order—

(*a*) allowing it a further period for altering its rules and submitting them as altered to the registrar, or

(*b*) directing the registrar to approve the rules as already submitted to him;

and if, on any such application, the Industrial Court considers that it would be appropriate to do so, the Court may make an order in accordance with paragraph (*a*) or paragraph (*b*) of this subsection.

Application to Industrial Court for cancellation of registration on other grounds.

77.—(1) The registrar may apply to the Industrial Court for an order directing the registration of an organisation as a trade union or an employers' association under this Act to be cancelled on any of the following grounds, that is to say,—

(*a*) that the registration was obtained by fraud or mistake;

(*b*) that, by reason of a change in its rules or other change of circumstances, the organisation has ceased to be eligible for registration under this Act;

(*c*) that the organisation has refused or failed to comply with any requirement (other than a requirement relating to its rules) imposed on it by or under this Part of this Act, and has persisted in its default after the registrar has given it notice specifying the default and fixing a time (not being less than two months) for remedying the fault, and that time has expired.

(2) If, on an application made on the grounds specified in paragraph (*a*) or paragraph (*b*) of the preceding subsection, the Industrial Court finds that the grounds of the application are well-founded, the Court shall make an order in accordance with the application.

(3) If, on an application made on the grounds specified in subsection (1)(*c*) of this section, the Industrial Court finds that the grounds of the application are well-founded, the Court shall either—

(*a*) make an order extending the time for remedying the default, or

(*b*) make an order directing the registrar to cancel the registration of the organisation under this Act,

as the Court considers appropriate in the circumstances.

Provisional register

Entry of organisations in provisional register.

78.—(1) As soon as practicable after the passing of this Act, the registrar shall institute a register under this section (in this Act referred to as "the provisional register") and shall maintain that register until all entries in it have been cancelled.

(2) The registrar shall forthwith enter in the provisional register every organisation which, immediately before the passing of this Act, is for the time being registered as a trade union under the Trade Union Acts 1871 to 1964.

(3) The registrar shall also enter in the provisional register any organisation which—

(*a*) is not registered as mentioned in subsection (2) of this section, but

(*b*) before the end of the period of six months beginning with the passing of this Act makes an application to the registrar to enter it in the provisional register, on the grounds that it is a trade union within the meaning of those Acts.

Transfer from provisional register and cancellation of entries.

79.—(1) In the case of each organisation which is entered in the provisional register, the registrar shall consider whether it appears to him to be eligible for registration as a trade union or as an employers' association in accordance with section 67 or section 71 of this Act; and if, before the end of the period of six months beginning with the date of its entry in the provisional register, the registrar is satisfied that it is so eligible, he shall cancel that entry and register the organisation under this Act as a trade union or as an employers' association, as the case may be, and shall issue to it a certificate of such registration.

(2) If, in the case of any organisation which is entered in the provisional register, the registrar is not satisfied as mentioned in the preceding subsection before the end of the period specified in that subsection, he shall serve on the organisation a notice stating that fact; and, where the registrar has served such a notice, he shall cancel the entry of the organisation in the

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provisional register unless, before the end of the period of six months beginning with the date of service of that notice, he is satisfied—

(*a*) that the organisation would have to alter its rules in order to be eligible for registration under this Act as a trade union or as an employers' association, and

(*b*) that the organisation is taking all necessary steps for the purpose of so altering its rules.

(3) Where the registrar refrains from cancelling the entry of an organisation in the provisional register by reason that he is satisfied as mentioned in paragraphs (*a*) and (*b*) of subsection (2) of this section, he shall serve on the organisation a notice allowing it such further period as he may consider appropriate for enabling it to make the requisite alterations in its rules.

(4) If, before the end of a further period allowed to an organisation under subsection (3) of this section, the organisation does not make an application for registration under section 68 or section 72 of this Act, the registrar shall cancel its entry in the provisional register at the end of that period; but, where the organisation does make such an application before the end of that period, then—

(*a*) if in consequence of that application the organisation is registered under this Act as a trade union or as an employers' association, the registrar shall cancel its entry in the provisional register as soon as the organisation is so registered, or

(*b*) in any other case, the registrar shall cancel that entry as soon as he has given his decision on the application and the time for appealing to the Industrial Court against that decision has expired without any such appeal having been brought or, on any such appeal, his decision has been upheld by the Court.

(5) No fee shall be payable for the registration of an organisation in pursuance of an application made in accordance with subsection (4) of this section.

Effect of entry in provisional register.

80. The entry of an organisation in the provisional register shall not constitute registration of the organisation under this Act as a trade union or as an employers' association; but, in relation to any organisation for the time being entered in the provisional register, the provisions of section 5, of Parts V to VII and of section 153 of this Act shall have effect to the extent specified in those provisions.

Power of registrar to investigate PART IV

Application to registrar to investigate.

81.—(1) Any person who—

(*a*) is a member of an organisation to which this section applies, or

(*b*) was a member of such an organisation and has ceased to be a member of it otherwise than by voluntary resignation, or

(*c*) has sought to become a member of it and has been refused admission to it or has, by any other action taken by or on behalf of the organisation, been prevented from obtaining admission to it,

shall be eligible to make an application under this section in relation to the organisation.

(2) This section applies to any organisation which is either—

(*a*) a trade union registered under this Act as being an organisation of workers other than a federation of workers' organisations, or

(*b*) an employers' association registered under this Act as being an organisation of employers other than a federation of employers' organisations.

(3) Any person who, in relation to an organisation to which this section applies, is eligible to do so may make an application to the registrar on the grounds that action specified in the application has been taken against him by or on behalf of the organisation and either—

(*a*) in accordance with section 66 or section 70 of this Act constituted an unfair industrial practice on the part of the organisation, or on the part of a person acting on its behalf, or

(*b*) constituted a breach of the rules of the organisation, other than a breach to which the next following subsection applies.

(4) This subsection applies—

(*a*) to any breach of any rules made in pursuance of section 3, section 4(1) or section 5(1) of the Trade Union Act 1913 (which relate to political funds), and 1913 c. 30 (2 & 3 Geo. 5).

(*b*) to any breach of rules in taking a vote on a resolution to approve an instrument of amalgamation or transfer within the meaning of the Trade Union (Amalgamations, etc.) Act 1964). 1964 c. 24.

(5) In this section "person" does not include a body of persons, whether corporate or unincorporate.

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Action by registrar on application under s. 81.

82.—(1) The registrar shall not proceed with an application made to him under section 81 of this Act unless he is satisfied that it was made by a person who is eligible to make it and that the application is made on grounds falling within subsection (3) of that section.

(2) The registrar shall not proceed with such an application unless either he is satisfied that it was made before the end of the period of four weeks beginning with whichever is the latest of the following dates, that is to say—

(*a*) the date of the action to which the application relates (or, if that action occurred on two or more dates, the latest of those dates);

(*b*) the earliest date on which that action came to the knowledge of the applicant;

(*c*) the date on which a complaint made by the applicant to the organisation to which the application relates, having been referred for determination in accordance with a procedure established for that purpose under the rules of the organisation, was finally determined (whether by being rejected or otherwise),

or he is satisfied that in the circumstances it was not practicable for the application to be made before the end of that period.

(3) Where on any such application it appears to the registrar that in accordance with the rules of the organisation an adequate procedure has been established for determining complaints, and that a complaint with respect to the action to which the application relates could be, but has not been, referred for determination in accordance with that procedure, the registrar shall defer consideration of the application, but shall resume consideration of it if it is re-submitted—

(*a*) after such a complaint has been referred for determination in accordance with that procedure, and a reasonable time has been allowed for it to be so determined, but

(*b*) not later than the end of the period of four weeks beginning with the date on which such a complaint is finally determined in accordance with that procedure.

(4) The registrar shall not be required to proceed with any such application if in his opinion it is frivolous or vexatious.

(5) Where the registrar proceeds with an application under section 81 of this Act, he shall investigate the matter to which the application relates and shall give notice of his conclusions to the applicant and to the organisation.

(6) If on carrying out that investigation it appears to him that the grounds of the application are well-founded, he shall endeavour to promote a settlement of the matter to which the application relates without its becoming the subject of a complaint to an industrial tribunal.

(7) Anything communicated to the registrar, or to a person acting on behalf of the registrar, in connection with the performance of his functions under subsection (6) of this section shall not be admissible in evidence in any proceedings before the Industrial Court or an industrial tribunal, except with the consent of the person who communicated it to the registrar or to that person.

Investigation initiated by registrar.

83.—(1) Where, otherwise than in consequence of an application under section 81 of this Act, the registrar, in the case of a trade union or an employers' association, has reason to suspect—

(*a*) that there has been a serious breach, or have been persistent breaches, of its rules, other than such rules as are mentioned in subsection (2) of this section, or

(*b*) that action has been taken by it or on its behalf which is in serious contravention of the principles set out in section 65 or (as the case may be) the principles referred to in section 69 of this Act, or that action in contravention of those principles has been persistently taken by it or on its behalf,

the registrar shall investigate the matter.

(2) For the purposes of paragraph (*a*) of the preceding subsection the registrar shall disregard any breach of rules to which section 81(4) of this Act applies.

(3) If, on carrying out an investigation under subsection (1) of this section, it appears to the registrar that one or more breaches have occurred as mentioned in paragraph (*a*) of that subsection, or that action has been taken as mentioned in paragraph (*b*) of that subsection, he shall give notice of his conclusions to the trade union or employers' association and endeavour to secure such action or such an undertaking on its part as, in his opinion, would be appropriate for either or both of the following purposes, that is to say, to remedy or mitigate the consequences, and to prevent a continuance or repetition, of the breaches of rules or of the action in question.

(4) Where the registrar gives notice in accordance with subsection (3) of this section, but is unable to secure such action or such an undertaking as is mentioned in that subsection and is satisfied that, in default of such action or such an undertaking, it would be an appropriate case for him to present a complaint

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to the Industrial Court under Part VI of this Act, the registrar shall give notice to the trade union or employers' association stating that, unless such action or such an undertaking as is specified in that notice is taken or given within a period so specified, it is his intention to present such a complaint.

Special register

Organisations eligible for entry in special register.

84.—(1) As soon as practicable after the passing of this Act, the registrar shall institute, and shall thereafter maintain, a register under this section (in this Act referred to as " the special register ").

(2) No organisation shall be eligible for entry in the special register unless it is either—

(*a*) a company which is for the time being registered under the Companies Act 1948, having been so registered before the passing of this Act, or

1948 c. 38.

(*b*) an organisation not for the time being registered under that Act, but incorporated by charter or letters patent, whether granted before or after the passing of this Act.

(3) Subject to subsection (2) of this section, any organisation shall be eligible for entry in the special register if—

(*a*) it is an independent organisation consisting wholly or mainly of workers of one or more descriptions;

(*b*) its activities include the regulation of relations between workers of that description or those descriptions and employers or organisations of employers; and

(*c*) it has power, without the concurrence of any parent organisation, to alter its own rules and to control the application of its own property and funds.

(4) Subject to subsection (2) of this section, any organisation shall be eligible for entry in the special register if—

(*a*) its membership consists wholly or mainly of constituent or affiliated organisations or of representatives of constituent or affiliated organisations;

(*b*) its activities include the regulation of relations between workers and employers or between workers and organisations of employers; and

(*c*) each of the constituent or affiliated organisations is either a trade union or is an organisation for the time being entered in the special register.

(5) In this section " parent organisation ", in relation to an organisation, means an organisation of which it is a branch or section.

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Application for entry in special register.

85.—(1) An application for entry in the special register may be made by any organisation to the registrar in such form and manner as the registrar may require.

(2) Together with any such application there shall be sent to the registrar a copy of the rules of the organisation, a list of its officers, and the names and addresses of its branches (if any).

(3) If on any such application the registrar is satisfied—

(*a*) that the organisation is eligible for entry in the special register by virtue of section 84(3) of this Act, and

(*b*) that the requirements of subsection (2) of this section have been complied with,

the registrar, on payment of a fee of £25 or such other amount as may be prescribed, shall enter the organisation in the special register as an organisation of workers other than a federation of workers' organisations, and shall issue to it a certificate of such registration.

(4) In determining, for the purposes of subsection (3) of this section, whether an organisation fulfils the condition specified in section 84(3)(*b*) of this Act, the registrar shall have regard to the activities actually carried on by the organisation, whether they appear to him to be in accordance with its memorandum and articles of association, or (as the case may be) its charter or letters patent, or not.

(5) If on an application under this section the registrar is satisfied—

(*a*) that the organisation is eligible for entry in this special register by virtue of section 84(4) of this Act, and

(*b*) that the requirements of subsection (2) of this section have been complied with,

the registrar, on payment of a fee of £25 or such other amount as may be prescribed, shall enter the organisation in the special register as a federation of workers' organisations, and shall issue to it a certificate of such registration.

Effect of entry in special register.

86.—(1) In this Act, except in sections 61 and 67(1)(*a*),—

(*a*) "organisation of workers" includes any organisation which does not fall within paragraph (*a*) or paragraph (*b*) of section 61(1) of this Act but is for the time being entered in the special register;

(*b*) "federation of workers' organisations" includes any organisation which does not fall within section 61(2) of this Act but is for the time being entered in the special register as a federation of workers' organisations.

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(2) Subject to the exceptions and modifications specified in the following provisions of this section, all the provisions of this Act shall have effect in relation to an organisation which is for the time being entered in the special register as they have effect in relation to a trade union.

(3) The following provisions of this Act shall not have effect in accordance with subsection (2) of this section, that is to say, sections 61(3), 73, 74, 78 to 80, 87, 88 and 90.

(4) The following provisions of this Act shall have effect in accordance with subsection (2) of this section subject to the following modifications, that is to say—

(*a*) in sections 76, 77 and 94 any reference to registration as a trade union or as an employers' association shall be construed as a reference to entry in the special register;

(*b*) in section 81(2)(*a*), for the words "a trade union registered under this Act as being" there shall be substituted the words "an organisation entered in the special register as".

Administrative provisions

Duty to keep accounting records and register of members.

87.—(1) Every trade union and every employers' association 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.

(2) For the purposes of paragraph (*a*) of subsection (1) of this section 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.

(3) Every trade union and every employers' association shall keep a register of its members in such form as the registrar may require.

Annual return, audit, annual report and members' superannuation schemes.

88.—(1) Every trade union and every employers' association shall in every calendar year send to the registrar a return relating to its affairs.

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

(3) Subject to the next following subsection, every trade union and every employers' association shall in every calendar year publish a report relating to its activities, either—

(*a*) by supplying a copy of it free of charge to every member of the trade union or employers' association, or

(*b*) by including it in a journal relating to its affairs which is available to all its members.

(4) The registrar, on the application of a trade union or an employers' association, may exempt it from the requirement imposed by subsection (3) of this section if in his opinion, having regard to the small number of its members, that requirement would be unduly onerous.

(5) In any calendar year in which a trade union or an employers' association, in pursuance of such an exemption, does not publish a report under subsection (3) of this section the trade union or employers' association shall supply to each of its members free of charge a copy of its annual return for that year.

(6) Every trade union and every employers' association shall, at the request of any person, supply to him a copy of its rules either free of charge or on payment of a reasonable charge.

(7) The provisions of Part I of Schedule 5 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; and the provisions of Part II of that Schedule shall have effect with respect to their annual reports.

(8) The provisions of Part III of Schedule 5 to this Act shall have effect with respect to members' superannuation schemes maintained or to be maintained by trade unions or employers' associations.

Duty to inform registrar of changes in rules, officers and other matters.

89.—(1) Apart from its annual return, every trade union and every employers' association shall send to the registrar—

(*a*) a copy of all changes which it makes in its rules, whether by altering or revoking existing rules or adding new rules;

(*b*) a note of all changes in its officers;

(*c*) a note of any change in the address of its principal office.

(2) Any such copy or note shall be sent to the registrar before the end of the period of one month from the date on which the change in question occurs and, in the case of a copy of a change in the rules, shall be sent to him together with a fee of £10 or such other sum as may be prescribed.

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(3) On receiving a copy of a change in the rules of a trade union or employers' association which is sent to him, together with the prescribed fee, in pursuance of this section, the registrar shall register the change.

Power for Chief Registrar to inspect and apply for winding up order.

90.—(1) If it appears to the Chief Registrar that there are reasonable grounds for believing that an organisation to which this section applies is insolvent, he may appoint an inspector to examine into and report on the affairs of the organisation.

(2) The organisations to which this section applies are trade unions and employers' associations.

(3) For the purpose of examining into and reporting on the affairs of an organisation under subsection (1) of this section, an inspector appointed under this section may require production of all or any of the books and documents of the organisation, and may examine on oath any of its officers, members or employees with respect to the conduct of its affairs, and for that purpose may administer an oath to any such officer, member or employee.

(4) If the report of an inspector appointed under this section to examine into the affairs of an organisation is such as to confirm the belief that it is insolvent, then, unless the organisation is already in the course of being wound up, the Chief Registrar may present a petition to the High Court, or, in Scotland, to the Court of Session, for the organisation to be wound up by the court in accordance with the Companies Act 1948.

1948 c. 38.

Offences under Part IV.

91.—(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 sections 87 to 89 of this Act or of Schedule 5 to this Act, it shall be guilty of an offence.

(2) Subject to subsection (3) of this section, any offence committed by a trade union or an employers' association under subsection (1) of this section shall be deemed to have been also committed by any officer of that trade union or employers' association who is bound by its rules to perform on its behalf the duty of which the offence is a breach.

(3) In any proceedings brought against any such officer by virtue of subsection (2) of this section, it shall be a defence for him to prove that he had reasonable grounds to believe, and did believe, that some other person, who was competent and reliable, was authorised to perform the duty in question instead of him and would perform it.

(4) If any person, with intent to falsify it or to enable a trade union or employers' association to evade any of the provisions referred to in subsection (1) of this section, wilfully alters or causes to be altered any document which is required for the purposes of any of those provisions, he 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) of this section, to a fine not exceeding £100, and

(*b*) in the case of an offence under subsection (4) of this section, to a fine not exceeding £400.

Supplementary

Cancellation by registrar on request or where organisation ceases to exist.

92.—(1) The registrar shall cancel the entry of an organisation in the provisional register, or the registration of an organisation under this Act as a trade union or as an employers' association,—

(*a*) if he is requested by the organisation to do so, or

(*b*) if the registrar is satisfied that the organisation has ceased to exist.

(2) Where under this section the registrar cancels the registration of an organisation, he shall cause notice of the cancellation to be published in the London and Edinburgh Gazettes.

Examination and approval of changes in rules.

93.—(1) As soon as practicable after the registrar has, in pursuance of section 89(3) of this Act, registered a change in the rules of an organisation, he shall examine the rules as they have effect in consequence of that change (in this section referred to as " the amended rules ") ; and, if on such examination it appears to him that the amended rules are defective in any of the ways specified in paragraphs (*a*), (*b*) and (*c*) of section 75(1) of this Act, he shall serve on the organisation a notice indicating what alterations in the amended rules are needed for the purpose of remedying the defect.

(2) The provisions of subsections (2) to (4) of section 75 and the provisions of section 76 of this Act shall have effect in relation to a notice served under subsection (1) of this section as they have effect in relation to a notice served under section 75(1) of this Act, as if in those provisions—

(*a*) any reference to a notice served under section 75(1) were a reference to a notice served under subsection (1) of this section, and

(*b*) any reference to the rules were a reference to the amended rules.

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Relaxation of restrictions on changes in rules.

94.—(1) The provisions of this section shall have effect for enabling any organisation to which this section applies to make a change in its rules, whether by altering or revoking existing rules or adding new rules,—

(*a*) for the purpose of becoming eligible for registration as a trade union or as an employers' association, or

(*b*) for the purpose of complying with the requirements of a notice served under section 75(1) or section 93(1) of this Act, or otherwise for the purpose of securing that its rules will be consistent with the principles set out in section 65 of this Act, or with the principles referred to in section 69 of this Act, as the case may be, or that they will comply with the requirements set out in Schedule 4 to this Act.

(2) This section applies to any organisation which is for the time being entered in the provisional register or which is a trade union or an employers' association.

(3) Where at any time after the commencement of this Act the steps which, by the rules of an organisation to which this section applies, are required for making a change in the rules for any of the purposes specified in subsection (1) of this section could not, apart from this section, be initiated, by reason of a restriction imposed by the rules as to the interval which must elapse between successive changes, or successive proposals for changes, in the rules, the steps so required may be initiated, and any procedures consequential upon those steps may be entered upon and completed, notwithstanding that restriction.

Inspection of registers and other documents.

95. The Secretary of State may by regulations make provision with respect to inspection of the registers and other documents kept by the registrar under this Part of this Act, and with respect to the fees to be charged for inspection of any such register or other document.

PART V

OTHER UNFAIR INDUSTRIAL PRACTICES

Inducement of, or threat to induce, breach of contract.

96.—(1) It shall be an unfair industrial practice for any person, in contemplation or furtherance of an industrial dispute, knowingly to induce or threaten to induce another person to break a contract to which that other person is a party, unless the person so inducing or threatening to induce the breach of contract—

(*a*) is a trade union or an employers' association, or

(*b*) does so within the scope of his authority on behalf of a trade union or an employers' association.

(2) In this Part of this Act any reference to a trade union or an employers' association shall be construed as including a reference to an organisation which is for the time being entered in the provisional register.

(3) In this section "contract"—

(*a*) does not include a collective agreement or any part of a collective agreement, but

(*b*) notwithstanding anything in the preceding paragraph, includes so much of any contract of employment as is implied or incorporated in that contract by reference to a collective agreement.

Industrial action in support of unfair industrial practice.

97.—(1) Subject to subsection (3) of this section, it shall be an unfair industrial practice for any person, in contemplation or furtherance of an industrial dispute, to take or threaten to take any of the steps specified in the next following subsection, if his purpose or principal purpose in doing so is to further any action which has been taken, whether by him or by any other person, and which, in accordance with any provision of this Act, constituted an unfair industrial practice.

(2) The steps referred to in the preceding subsection are—

(*a*) calling, organising, procuring or financing a strike;

(*b*) organising, procuring or financing any irregular industrial action short of a strike;

(*c*) instituting, carrying on, organising, procuring or financing a lock-out.

(3) Any steps taken or threatened to be taken by a trade union or an employers' association for the purpose of furthering any action which—

(*a*) has been taken by one or more officials or members of the trade union or employers' association, and

(*b*) constituted an unfair industrial practice by virtue only of section 96 of this Act,

shall not be an unfair industrial practice by virtue of this section.

Industrial action against extraneous parties.

98.—(1) It shall be an unfair industrial practice for any person, in contemplation or furtherance of an industrial dispute, to take or threaten to take any of the steps specified in section 97(2) of this Act if—

(*a*) he knows or has reasonable grounds for believing that another person has entered into a contract (not being a contract of employment) with a party to that industrial dispute;

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(*b*) his purpose or principal purpose in taking or threatening to take those steps is knowingly to induce that other person to break that contract or to prevent him from performing it; and

(*c*) that other person is an extraneous party in relation to that industrial dispute.

(2) For the purposes of this section a person shall be regarded as an extraneous party in relation to an industrial dispute if—

(*a*) he is not a party to that dispute, and

(*b*) he has not, in contemplation or furtherance of that dispute, taken any action in material support of a party to it.

(3) A person shall not be regarded for the purposes of this section as a party to an industrial dispute or as having taken action as mentioned in subsection (2)(*b*) of this section by reason only that he—

(*a*) is an associated employer in relation to an employer who is a party to the industrial dispute, or

(*b*) is a member of an organisation of employers of which a party to the industrial dispute is also a member, or

(*c*) has contributed to a fund which may be available to such a party by way of relief in respect of losses incurred or to be incurred in consequence of the dispute, where the fund was established, and his contribution to it was paid, without specific reference to that industrial dispute, or

(*d*) supplies goods to, or provides services for, a party to the industrial dispute in pursuance of a contract entered into before the industrial dispute began, or is a party to such a contract under which he is or may be required to supply goods to, or provide services for, a party to the industrial dispute.

PART VI

NATIONAL INDUSTRIAL RELATIONS COURT, INDUSTRIAL TRIBUNALS, COMMISSION ON INDUSTRIAL RELATIONS AND INDUSTRIAL ARBITRATION BOARD

National Industrial Relations Court and Industrial Tribunals

Establishment and membership of Industrial Court.

99.—(1) There shall be established a court to be known as the National Industrial Relations Court (in this Act referred to as " the Industrial Court ").

(2) The Industrial Court shall consist of—

(*a*) such number of judges as may be nominated from time to time by the Lord Chancellor from among the judges

(other than the Lord Chancellor) of the High Court and the Court of Appeal;

(*b*) at least one judge of the Court of Session nominated from time to time by the Lord President of that Court; and

(*c*) such number of other members as may be appointed from time to time by Her Majesty.

(3) The members of the Industrial Court appointed under subsection (2)(*c*) of this section shall be so appointed on the joint recommendation of the Lord Chancellor and the Secretary of State, and shall be persons appearing to the Lord Chancellor and the Secretary of State to have special knowledge or experience of industrial relations.

(4) The Lord Chancellor shall appoint one of the judges nominated under subsection (2) of this section to be President of the Industrial Court.

(5) No judge shall be nominated a member of the Industrial Court except with his consent.

(6) The provisions of Part II and (so far as applicable) Part V of Schedule 3 to this Act shall have effect with respect to the Industrial Court.

(7) In this Act "Industrial Court rules" means rules for the time being in force under Part II of that Schedule.

Extended scope of industrial tribunals. 1964 c. 16. 1963 c. 49. 1965 c. 62. 1966 c. 28. 1966 c. 32. 1970 c. 41.

100.—(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 Contracts of Employment Act 1963, the Redundancy Payments Act 1965, the Docks and Harbours Act 1966, the Selective Employment Payments Act 1966 and the Equal Pay Act 1970 and shall exercise the jurisdiction conferred on industrial tribunals by or under this Act.

(2) The provisions of Schedule 6 to this Act shall have effect in substitution for subsections (1) to (4) of section 46 of the Redundancy Payments Act 1965 (procedure of tribunals).

(3) In this Act "industrial tribunal regulations" means regulations for the time being in force under that Schedule.

Complaint to Industrial Court of unfair industrial practice.

101.—(1) A complaint may be presented to the Industrial Court by any person (in this section referred to as "the complainant") that—

(*a*) action specified in the complaint has been taken by a person so specified (in this section referred to as "the respondent");

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(*b*) in accordance with any provision of this Act, other than sections 5 and 22, that action constituted an unfair industrial practice on the part of the respondent; and

(*c*) the complainant is the person against whom the action was taken.

(2) If, on such a complaint, the Industrial Court finds that the grounds of the complaint (as specified in paragraphs (*a*) to (*c*) of the preceding subsection) are well-founded, the Court may, if it considers that it would be just and equitable to do so, grant to the complainant such one or more of the remedies specified in the following provisions of this section as the Court considers appropriate.

(3) Subject to the next following subsection, the remedies which may be so granted are—

(*a*) an order determining the rights of the complainant and of the respondent in relation to the action specified in the complaint;

(*b*) an award of compensation, to be paid by the respondent to the complainant, in respect of that action;

(*c*) an order directing the respondent to refrain from continuing to take that action, and to refrain from taking any other action of a like nature in relation to the complainant.

(4) Where, in any proceedings on a complaint under this section against an official of a trade union or an employers' association in respect of action taken by him in his capacity as such an official, it is shown that he took that action within the scope of his authority on behalf of the trade union or employers' association,—

(*a*) the Industrial Court shall not make an award or order against him in pursuance of paragraph (*b*) or paragraph (*c*) of subsection (3) of this section, but

(*b*) nothing in this subsection shall affect the granting of any remedy against the trade union or employers' association, whether in the same proceedings or in any other proceedings.

Complaint of breach of duty under s. 13(1) or s. 56.

102.—(1) A complaint may be presented to the Industrial Court by a trade union that an employer—

(*a*) in contravention of his duty under section 13(1) of this Act, has not taken all such action as was requisite on his part for the purpose of entering into an agency shop agreement with the trade union, or for the purpose of carrying out an agency shop agreement to which he and the trade union are parties, or

(*b*) in contravention of his duty under section 56 of this Act, has refused or failed to disclose to officials or other representatives of the trade union information which he was required by that section to disclose to them, or to confirm any such information in writing when requested by them to do so.

(2) If, on such a complaint, the Industrial Court finds that the grounds of the complaint are well-founded, the Court may, if it considers that it would be just and equitable to do so, make any one or more of the following orders, that is to say—

(*a*) an order determining the rights of the trade union and of the employer in relation to the matters to which the complaint relates;

(*b*) an order directing the employer to take such action in fulfilment of the duty in question as, in the opinion of the Court, it would be within the power of the employer to take and is action which in the circumstances he ought to be required to take;

(*c*) where the complaint relates to section 56 of this Act, an order authorising the presentation of a claim to the Industrial Arbitration Board under section 126 of this Act.

Complaint by registrar to Industrial Court in consequence of application under s. 81.

103.—(1) Where a person (in this section referred to as "the original applicant") has made an application to the registrar under section 81 of this Act, and, on proceeding with that application and carrying out an investigation under section 82 of this Act, the registrar finds that the grounds of the application appear to him to be well-founded, then if—

(*a*) a settlement with respect to the action to which the application related has not been reached within such period as the registrar considers reasonable in the circumstances, and

(*b*) no complaint relating to that action has been presented to an industrial tribunal under the following provisions of this Part of this Act, and it appears to the registrar that the matter is of such a serious character that it ought to be brought before the Industrial Court,

the registrar may present to the Industrial Court a complaint relating to that action against the trade union or employers' association to which the application related.

(2) Where on any such complaint the Industrial Court finds that the grounds of the application under section 81 of this Act were well-founded, the Court, if it considers that it would be just and equitable to do so, may grant to the original applicant such one or more of the remedies specified in the next following subsection as the Court considers appropriate.

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(3) The remedies which may be so granted are—

(*a*) an order determining the rights of the original applicant and of the trade union or employers' association in relation to the action to which the application related:

(*b*) an award of compensation, to be paid by the trade union or employers' association to the original applicant, in respect of that action;

(*c*) an order directing the trade union or employers' association to refrain from continuing to take that action, and to refrain from taking any other action of a like nature in relation to the original applicant.

Complaint by registrar in consequence of investigation under s. 83.

104.—(1) Where, in consequence of an investigation under section 83 of this Act, the registrar has given notice to a trade union or employers' association in accordance with subsection (4) of that section, and it appears to the registrar that either—

(*a*) the action or undertaking required by the notice has not been taken or given within the period specified in the notice, or

(*b*) where such an undertaking has been given, the undertaking has not been fulfilled,

the registrar may present to the Industrial Court a complaint under this section against the trade union or employers' association.

(2) If, on determining such a complaint, the Industrial Court finds—

(*a*) that one or more breaches of rules did occur as mentioned in paragraph (*a*) of subsection (1) of section 83 of this Act, or that action was taken as mentioned in paragraph (*b*) of that subsection, and

(*b*) that the condition specified in paragraph (*a*) or paragraph (*b*) of the preceding subsection is fulfilled,

the Court may make an order directing the trade union or employers' association to take such action specified in the order as, in the opinion of the Court, would be appropriate for either or both of the following purposes, that is to say, to remedy or mitigate the consequences, and to prevent a continuance or repetition of the breaches of rules or of the action to which the complaint relates.

Special provisions as to certain complaints to Industrial Court.

105.—(1) For the purposes of the application of section 101(1)(*c*) of this Act to a complaint that action specified in the complaint constituted an unfair industrial practice in accordance with section 33(3)(*a*) of this Act, the reference in section 101(1)(*c*) to the person against whom the action was taken shall be construed as a reference to the employer and not to the worker.

(2) For the purposes of the application of section 101(1)(*c*) of this Act to a complaint that action specified in the complaint constituted an unfair industrial practice in accordance with section 98 of this Act, the reference in section 101(1)(*c*) to the person against whom the action was taken shall be construed as a reference to either of the following, that is to say—

(*a*) the person who was induced to break the contract to which the complaint relates or who was prevented from performing that contract, and

(*b*) the party to the industrial dispute in question with whom that contract was made.

(3) Where the action specified in a complaint presented under section 101 of this Act consists of a threat made by the respondent, or consists of action carried out by means of a threat, the remedies available to the Industrial Court under subsection (3) of that section shall (instead of that specified in paragraph (*c*) of that subsection) include either or both of the following, that is to say—

(*a*) an order directing the respondent to refrain from making or continuing to make that threat or any other threat of a like nature against the complainant;

(*b*) an order directing the respondent to refrain from taking or continuing to take action in accordance with the threat and to refrain from taking any other action of a like nature in relation to the complainant.

(4) In relation to a complaint falling within subsection (3) of this section, section 101(4)(*a*) of this Act shall apply as if, for the words "paragraph (*b*) or paragraph (*c*) of subsection (3) of this section" there were substituted the words "subsection (3)(*b*) of this section or section 105(3) of this Act".

(5) Where, on a complaint under section 101 of this Act, the complainant is a trade union or a joint negotiating panel of trade unions, and the complaint relates to action constituting an unfair industrial practice by virtue of paragraph (*b*) of subsection (1) of section 55 of this Act, or by virtue of that paragraph as modified by any of the provisions of subsections (2), (4) and (5) of that section, the remedies specified in subsection (3) of section 101 of this Act shall not be available to the Industrial Court, but the Court may, if it considers that it would be just and equitable to do so, make an order—

(*a*) authorising the presentation of a claim to the Industrial Arbitration Board under section 125 of this Act, and

(*b*) specifying the date on which, in accordance with the finding of the Court, the action constituting the unfair industrial practice first occurred.

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(6) On a complaint under section 101 of this Act that action specified in the complaint constituted an unfair industrial practice under section 36(1) of this Act, where the complaint relates to a collective agreement which—

(*a*) was made before the date as from which section 4 of the 1871 c. 31. Trade Union Act 1871 (which restricts enforcement of certain contracts) is repealed by this Act, and

(*b*) was a collective agreement made by or on behalf of parties which were or included one or more organisations of workers and one or more organisations of employers,

the only remedy available to the Industrial Court shall be that specified in section 101(3)(*a*) of this Act.

Complaint to industrial tribunal of unfair industrial practice under s. 5 or s. 22.

106.—(1) A complaint may be presented to an industrial tribunal against an employer by any person (in this section referred to as " the complainant ") that—

(*a*) action specified in the complaint has been taken by the employer or by a person acting on the employer's behalf;

(*b*) in accordance with section 5 or section 22 of this Act, that action constituted an unfair industrial practice on the part of the employer or of the person acting on the employer's behalf; and

(*c*) where the complaint relates to dismissal, the complainant is the person who was dismissed, or, in any other case, the complainant is the person who was prevented or deterred from exercising his rights, or was penalised or otherwise discriminated against, or was refused engagement, as the case may be.

(2) If on a complaint under this section, other than a complaint relating to dismissal, the industrial tribunal finds that the grounds of the complaint (as specified in paragraphs (*a*) to (*c*) of the preceding subsection) are well-founded, the tribunal may, if it considers that it would be just and equitable to do so, grant to the complainant either or both of the remedies specified in the next following subsection, as the tribunal considers appropriate.

(3) The remedies which may be so granted are—

(*a*) an order determining the rights of the complainant and of the employer in relation to the action specified in the complaint;

(*b*) an award of compensation, to be paid by the employer to the complainant, in respect of that action.

(4) Where on a complaint under this section relating to dismissal the industrial tribunal—

(*a*) finds that the grounds of the complaint (as specified in paragraphs (*a*) to (*c*) of subsection (1) of this section) are well-founded, and

(*b*) considers that it would be practicable, and in accordance with equity, for the complainant to be 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 re-engaged or engaged.

(5) 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 is mentioned in subsection (4) of this section, 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.

Complaint by individual of unfair industrial practice under s. 66 or s. 70, or of breach of rules.

107.—(1) Any person who—

(*a*) is a member of an organisation to which this section applies, or

(*b*) was a member of such an organisation and has ceased to be a member of it otherwise than by voluntary resignation, or

(*c*) has sought to become a member of it and has been refused admission to it or has, by any other action taken by or on behalf of the organisation, been prevented from obtaining admission to it,

shall be eligible to present a complaint under this section to an industrial tribunal against the organisation.

(2) This section applies to any organisation which is either—

(*a*) an organisation of workers, other than a federation of workers' organisations, or

(*b*) an organisation of employers, other than a federation of employers' organisations.

(3) Any complaint presented to an industrial tribunal under this section shall be a complaint that action specified in the complaint has been taken by or on behalf of the organisation and, where the organisation is a trade union or an employers' association, that it was taken against the person who presents the complaint, and (whether the organisation is a trade union or an

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employers' association or not) that the action specified in the complaint either—

(*a*) in accordance with section 66 or section 70 of this Act constituted an unfair industrial practice on the part of the organisation, or on the part of a person acting on the organisation's behalf, or

(*b*) constituted a breach of the rules of the organisation.

(4) An industrial tribunal to which a complaint is presented under this section shall not entertain the complaint if it appears to the tribunal that—

(*a*) it relates to a matter in respect of which an application has been made under section 81 of this Act, and

(*b*) the registrar has proceeded or is proceeding with that application and has not yet given notice of his conclusions on investigating the matter to which it related.

(5) In this section "person" does not include a body of persons, whether corporate or unincorporate.

Complaint by registrar to industrial tribunal in consequence of application under s. 81.

108.—(1) The provisions of this section shall have effect where—

(*a*) a person (in this section referred to as "the original applicant") has made an application to the registrar under section 81 of this Act, and, on proceeding with that application and carrying out an investigation under section 82 of this Act, the registrar finds that the grounds of the application appear to him to be well-founded;

(*b*) a settlement with respect to the action to which the application related is not reached within such period as the registrar considers reasonable in the circumstances;

(*c*) the registrar does not propose to present a complaint to the Industrial Court under section 103 of this Act with respect to that action; but

(*d*) it appears to the registrar that it is a matter in respect of which a complaint ought to be presented to an industrial tribunal and that the original applicant has not presented and does not intend to present such a complaint.

(2) In the circumstances specified in the preceding subsection, a complaint in respect of the action to which the application related may be presented to an industrial tribunal by the registrar against the trade union or employers' association in relation to which the application was made.

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Determination of complaint under s. 107 or s. 108.

109.—(1) Where on a complaint presented under section 107 or section 108 of this Act the industrial tribunal, on determining the complaint, finds that the action specified in the complaint was taken by or on behalf of the organisation against which the complaint was presented and—

(*a*) in accordance with section 66 or section 70 of this Act constituted an unfair industrial practice on the part of the organisation, or on the part of a person acting on the organisation's behalf, or

(*b*) constituted a breach of the rules of the organisation,

the tribunal may, if it considers that it would be just and equitable to do so, grant to the relevant person either or both of the remedies specified in the next following subsection, as the tribunal considers appropriate.

(2) The remedies which may be so granted are—

(*a*) an order determining the rights of the relevant person and of the organisation in relation to the action specified in the complaint;

(*b*) an award of compensation, to be paid by the organisation to the relevant person, in respect of that action.

(3) In this section " the relevant person "—

(*a*) in relation to a complaint presented under section 107 of this Act, means the person who presented the complaint, and

(*b*) in relation to a complaint presented by the registrar under section 108 of this Act, means the original applicant within the meaning of that section.

Complaint of breach of duty under s. 57.

110.—(1) Any person employed in an undertaking may present to an industrial tribunal a complaint against the employer who is the owner of the undertaking that—

(*a*) under section 57 of this Act it was the duty of the employer to issue to him a statement relating to a period specified in the complaint and containing the information required in accordance with regulations made under that section, and

(*b*) the employer has not fulfilled that duty as required by that section.

(2) If, on such a complaint, the industrial tribunal finds that the grounds of the complaint are well-founded, the tribunal may, if it considers that it would be just and equitable to do so, make an order determining the rights of the person who presented the complaint and of the employer in relation to the matters to which the complaint relates.

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(3) Where an industrial tribunal makes an order under this section, the tribunal may direct that, in relation to the period specified in the complaint, the time limited by section 57(2) of this Act shall be extended for such further period as may be specified in the order; and in the next following subsection " the time allowed by the tribunal " means the time so limited together with any further period specified in the order.

(4) If a person whose rights have been determined by an order made by an industrial tribunal under this section claims that, notwithstanding the order, the employer has not, within the time allowed by the tribunal, issued to him a statement in accordance with his rights as so determined he may present a complaint to that effect to the Industrial Court.

(5) On a complaint presented under subsection (4) of this section the Industrial Court may, if it finds that the grounds of the complaint are well-founded and considers that it would be just and equitable to do so, make an order directing the employer, before the end of such period as may be specified in the order of the Court, to issue to the complainant a statement containing such information as the Court considers appropriate, having regard to the rights determined by the order of the industrial tribunal.

Transfer of cases between industrial tribunals and Industrial Court.

111.—(1) An industrial tribunal to which a complaint is presented under this Act shall not determine the complaint if—

(*a*) in accordance with Industrial Court rules the Industrial Court has directed the tribunal to transfer the complaint to that Court, or

(*b*) in accordance with industrial tribunal regulations the tribunal itself transfers the complaint to the Industrial Court, and the Industrial Court does not transfer the complaint back to the industrial tribunal as being more appropriate for determination by the tribunal.

(2) For the purpose of dealing with any complaint which an industrial tribunal is precluded from determining by virtue of subsection (1) of this section, the Industrial Court shall have the like jurisdiction as the industrial tribunal would have had, and shall be subject to the like provisions of this Act as to the remedies which are to be or may be granted in respect of it.

Application to Industrial Court for declaration with respect to collective agreement.

112.—(1) Any party to a collective agreement in writing may make an application to the Industrial Court for a declaration with respect to any question relating to any provisions of the agreement.

(2) Any such application shall specify the question or questions on which a decision of the Industrial Court is sought and, with respect to each such question,—

(*a*) shall indicate the provisions of the collective agreement to which it relates, and

(*b*) shall contain, or be accompanied by, a statement of the facts in consequence of which it is claimed that the question arises.

(3) An application under this section—

(*a*) shall not be entertained by the Industrial Court if it relates to a collective agreement which contains a provision (however expressed) stating that the agreement is intended not to be legally enforceable, or

(*b*) if it relates to a collective agreement which contains a provision (however expressed) stating that part of the agreement is intended not to be legally enforceable, shall not be entertained by the Industrial Court in so far as it relates to that part of the collective agreement.

(4) On an application under this section the Industrial Court, having regard to its findings in respect of the facts stated by the applicant and in respect of the construction and effect of the provisions of the collective agreement to which the application relates, may, if the Court considers that it would be just and equitable to do so, make such declaration with respect to any question specified in the application as the Court considers appropriate.

Power to confer jurisdiction on industrial tribunals in respect of damages for breach of contract of employment.

113.—(1) This section applies to damages for breach, by any party to it, of any contract of employment or of any term of such a contract (whether it is a term expressly included in the contract or implied in it by virtue of any enactment or otherwise, or is a term of the contract as modified by virtue of any enactment), other than damages in respect of personal injuries to any person or in respect of a person's death.

(2) The Lord Chancellor may by order made by statutory instrument provide, either—

(*a*) generally in relation to claims for damages to which this section applies, or

(*b*) in relation to claims for such damages of any such description as may be specified in the order,

that, subject to such exceptions (if any) as may be so specified, proceedings for the recovery of damages to which this section applies, or for the recovery of such damages on claims of a description specified in the order, as the case may be, may in accordance with industrial tribunal regulations be brought before an industrial tribunal if, in accordance with the law for the

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time being in force, a court in England or Wales would have jurisdiction to hear and determine an action for the recovery of those damages.

(3) The Secretary of State may by order made by statutory instrument provide, either—

(*a*) generally in relation to claims for damages to which this section applies, or

(*b*) in relation to claims for such damages of any such description as may be specified in the order,

that, subject to such exceptions (if any) as may be so specified, proceedings for the recovery of damages to which this section applies, or for the recovery of such damages on claims of a description specified in the order, as the case may be, may in accordance with industrial tribunal regulations be brought before an industrial tribunal if, in accordance with the law for the time being in force, a court in Scotland would have jurisdiction to hear and determine an action for the recovery of those damages.

(4) Any jurisdiction conferred on industrial tribunals by virtue of this section shall not include power to award any relief other than damages and (in England and Wales) costs or (in Scotland) expenses.

(5) Any order made under this section may contain such incidental, supplementary or transitional provisions (including provisions modifying any other enactment) as the Minister making the order considers necessary or expedient.

(6) Provision may be made by industrial tribunal regulations for enabling an industrial tribunal to take proceedings brought by virtue of this section concurrently with any proceedings brought before the tribunal by virtue of any other enactment (including any enactment contained in this Act).

(7) Subject to section 130 of this Act, any jurisdiction conferred on an industrial tribunal by virtue of this section shall be exercisable concurrently with any court in England or Wales, or in Scotland, as the case may be, which has jurisdiction to hear and determine an action for the damages in question.

(8) In this section " personal injuries " includes any disease and any impairment of a person's physical or mental condition; and for the purposes of this section a claim for payment of any sum payable under a contract of employment shall be regarded as a claim for damages for breach of the contract, and any reference in this section to damages shall be construed accordingly.

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

Appeals to Industrial Court PART VI

Appeal from industrial tribunal to Industrial Court.

114.—(1) This section applies to appeals on questions of law arising in any proceedings before, or arising from any decision of, an industrial tribunal—

(*a*) under the Contracts of Employment Act 1963; 1963 c. 49.

(*b*) under the Redundancy Payments Act 1965; 1965 c. 62.

(*c*) under the Equal Pay Act 1970; 1970 c. 41.

(*d*) on a complaint under this Act; or

(*e*) in the exercise of any jurisdiction conferred under section 113 of this Act.

(2) The Lord Chancellor may by order made by statutory instrument provide, either—

(*a*) generally in relation to appeals to which this section applies in respect of proceedings before, and decisions of, industrial tribunals in England and Wales, or

(*b*) in relation to such appeals of a description specified in the order,

that those appeals shall lie to the Industrial Court and (without prejudice to any right of appeal from a decision of the Industrial Court) shall not lie to any other court.

(3) The Secretary of State may by statutory instrument provide, either—

(*a*) generally in relation to appeals to which this section applies in respect of proceedings before, and decisions of, industrial tribunals in Scotland, or

(*b*) in relation to such appeals of a description specified in the order,

that those appeals shall lie to the Industrial Court and (without prejudice to any right of appeal from a decision of the Industrial Court) shall not lie to any other court.

(4) Any order made under this section may contain such incidental, supplementary or transitional provisions (including provisions modifying any other enactment) as the Minister making the order considers necessary or expedient.

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

Other appeals to Industrial Court. 1913 c. 30 (2&3 Geo. 5).

115.—(1) An appeal shall lie to the Industrial Court—

(*a*) against any order of the registrar under section 3(2) of the Trade Union Act 1913 (which relates to complaints of breaches of rules relating to political funds) or against any decision of the registrar refusing to make such an order;

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(*b*) against any decision of the registrar under section 4 or section 5 of that Act (which empower the registrar to approve rules, and give certificates, relating to political funds);

(*c*) against any decision of the registrar on an application under section 68, section 72 or section 85 of this Act;

(*d*) against any decision of the registrar, as indicated in a notice served on an organisation under section 75(1) or section 93(1) of this Act, that the rules of the organisation are defective.

1964 c. 24.

(2) For the power of the registrar under subsections (8) and (11) of section 4 of the Trade Union (Amalgamations, etc.) Act 1964 (complaints to registrar as regards passing of resolution) to state a case for the opinion of the High Court or of the Court of Session on a point of law arising in proceedings on a complaint under that section, there shall be substituted a duty of the registrar to state a case for the opinion of the Industrial Court on any such question of law if requested to do so by the complainant or by the organisation to which the complaint relates.

Compensation

General principles as to assessment of compensation.

116.—(1) Where in any proceedings on a complaint under this Act the Industrial Court or an industrial tribunal makes an award of compensation to be paid by a party to the proceedings (in this section referred to as "the party in default") to another party (in this section referred to as "the aggrieved party"), the amount of the compensation shall, subject to the following provisions of this Part of this Act, be such amount as the Court or 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 loss sustained by the aggrieved party, as mentioned in the preceding subsection, shall be taken to include—

(*a*) any expenses reasonably incurred by him 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 Court or 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 (whether that action constituted an unfair industrial practice on his part or not), the Court or tribunal shall reduce its assessment of his loss to such extent as, having regard to that finding, the Court or tribunal considers just and equitable.

(4) Where, on a complaint under section 106 of this Act relating to dismissal, the industrial tribunal or (as the case may be) the Industrial Court has made a recommendation in accordance with subsection (4) of that section, and that recommendation is not complied with, then—

(*a*) if the tribunal or Court finds that the reason for which it was not complied with was that the complainant refused an offer of re-engagement or engagement on the terms stated in the recommendation, and the tribunal or Court considers that he acted unreasonably in doing so, the tribunal or Court (without prejudice to the generality of the rule mentioned in subsection (2) of this section) shall reduce the assessment of his loss, or

(*b*) if the tribunal or Court 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 or Court considers that he acted unreasonably in doing so, the tribunal or Court shall increase that assessment,

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

(5) In determining, on a complaint under section 106 of this Act, how far any loss sustained by the complainant 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 section 33(1)(*a*) of this Act, and that question shall be determined as if no such pressure had been exercised.

Limit on compensation awarded against trade union.

117.—(1) In any proceedings before the Industrial Court on a complaint under this Act where an award of compensation is made by the Court against a trade union (whether such an award is also made against any other party to the proceedings or not) the compensation awarded against the trade union in those proceedings shall not exceed the appropriate limit.

(2) For the purposes of this section the appropriate limit—

(*a*) in the case of a trade union having a membership of less than 5,000, is £5,000;

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(*b*) in a case of a trade union having a membership of 5,000 or more but less than 25,000, is £25,000;

(*c*) in the case of a trade union having a membership of 25,000 or more but less than 100,000, is £50,000; and

(*d*) in the case of a trade union having a membership of 100,000 or more, is £100,000.

(3) In this section any reference to a trade union shall be construed as including a reference to an organisation of workers which is for the time being entered in the provisional register.

Limit on compensation awarded under s. 103, s. 106 or s. 109.

118.—(1) Without prejudice to section 117 of this Act, the amount of the compensation which, on the determination of a complaint by the Industrial Court or an industrial tribunal, is awarded to a person under section 103, section 106 or section 109 of this Act shall not exceed—

(*a*) the amount which, in his case, represents 104 weeks' pay, or

(*b*) £4,160 (that is to say, 104 × £40),

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 the preceding subsection.

(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, subsection (1) of this section shall have effect as if, for the references to £4,160 and £40, there were substituted references to such larger sums as may be specified in the order.

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

Contribution to compensation on complaint under s. 106.

119.—(1) The provisions of this section shall have effect where, in any proceedings on a complaint under section 106 of this Act, an industrial tribunal or the Industrial Court makes an award of compensation to be paid by an employer in consequence of action taken by the employer or by a person acting on his behalf, and the employer claims—

(*a*) that the action so taken by him or on his behalf was induced by pressure exercised on him by another person (in this section referred to as "the third party") by means of action to which section 33 of this Act applies, and

(*b*) that by virtue of subsection (3) of that section the action taken by the third party, whereby pressure was so exercised on the employer, constituted an unfair industrial practice.

(2) In the circumstances specified in the preceding subsection the employer may, in accordance with industrial tribunal regulations or Industrial Court rules, as the case may be, require the third party to be joined as a party to the proceedings; and if in the proceedings the industrial tribunal or the Industrial Court finds that the claim of the employer (as specified in paragraphs (*a*) and (*b*) of the preceding subsection) is well-founded, then, subject to subsection (4) of this section, the tribunal or Court may, if it considers that it would be just and equitable to do so, make an order requiring the third party to pay to the employer a contribution in respect of the compensation awarded against him.

(3) The amount of any contribution ordered to be paid under this section in respect of any compensation—

(*a*) shall be such amount as the industrial tribunal or the Industrial Court, as the case may be, considers to be just and equitable in the circumstances, and

(*b*) may, if the tribunal or Court so determines, be such as to constitute a complete indemnity.

(4) Where the third party is an official of a trade union, and it is shown that, in taking the action in question, he was acting in his capacity as such an official and within the scope of his authority on behalf of the trade union—

(*a*) the industrial tribunal or the Industrial Court, as the case may be, shall not order him to pay any contribution to the employer under this section, but

(*b*) nothing in the preceding paragraph shall affect the power of the tribunal or Court to order a contribution to be paid by the trade union.

Commission on Industrial Relations

Constitution and proceedings of Commission.

120.—(1) There shall be established as a statutory body a commission to be called the Commission on Industrial Relations (in this Act referred to as " the Commission ").

(2) Subject to subsection (5) of this section, the Commission shall consist of not less than six and not more than fifteen members appointed by the Secretary of State.

(3) The Secretary of State may appoint persons to the Commission either as full-time members or as part-time members.

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(4) Of the full-time members, the Secretary of State shall appoint one to be chairman of the Commission and may appoint one or more to be deputy chairman or deputy chairmen.

(5) The Secretary of State may by order made by statutory instrument direct that the minimum or maximum number of members of the Commission shall be a number greater or less (in either case) than that specified in subsection (2) of this section.

(6) The provisions of Part III and (so far as applicable) Parts IV and V of Schedule 3 to this Act shall have effect with respect to the Commission.

General provisions for reference of questions to Commission.

121.—(1) The Secretary of State, or the Secretary of State and any other Minister acting jointly, may refer to the Commission any question relating to industrial relations generally or to industrial relations in any particular industry or in any particular undertaking or part of an undertaking.

(2) Without prejudice to the generality of the preceding subsection, the questions which may be referred to the Commission under this section include any question (whether it arises generally or arises in relation to a particular industry or a particular undertaking or part of an undertaking) which relates to any of the following subjects, that is to say—

(*a*) the manner in which employers or workers are, or ought to be, organised for purposes of collective bargaining, including any question as to amalgamation of, or co-operation or other relations between, the bodies in which employers or workers are organised for those purposes;

(*b*) procedure agreements, or the need for procedure agreements where they do not exist;

(*c*) any matter for which a procedure agreement can provide;

(*d*) recognition and negotiating rights for purposes of collective bargaining;

(*e*) disclosure of information by employers to their employees or to officials of trade unions or other organisations of workers having negotiating rights;

(*f*) facilities for training in industrial relations or in collective bargaining, and provision for enabling persons to take advantage of such facilities without detriment to their acceptance or status as employees or as members of an organisation of workers.

(3) The Minister or Ministers by whom a question is referred to the Commission under this section may at any time—

(*a*) vary that question by a further reference, or

(*b*) withdraw the reference of that question.

Report of Commission on reference under s. 121.

122.—(1) Subject to the next following subsection, the Commission shall examine any question referred to them under section 121 of this Act, where the reference of that question has not been withdrawn, and shall report to the Minister or Ministers who referred it to the Commission.

(2) In so far as any question so referred to the Commission falls within the scope of a question which has (whether before the reference under section 121 of this Act was made or before the Commission had reported on it) been referred to the Commission by the Industrial Court under this Act, the Commission shall proceed in accordance with the provisions of this Act which are applicable to that question, and shall not examine or report on it otherwise than in accordance with those provisions.

(3) Where a report is made by the Commission under this section, the Minister or Ministers to whom the report is made, if after consultation with the Commission it appears to the Minister or Ministers that it would be expedient to do so, may arrange for the report to be published in such manner as the Minister or Ministers may consider appropriate.

(4) If it appears to the Minister or Ministers, on determining to publish such a report, that the publication of any particular matter in the report would be against the interests of national security, the Minister or Ministers shall exclude that matter from the report as published.

Annual report of Commission.

123.—(1) The Commission shall, as soon as practicable after the end of each calendar year, make to the Secretary of State a report on their activities during that year.

(2) Every such report shall include a general review of the development of collective bargaining in the United Kingdom during the year to which it relates, and shall draw attention to any particular problems in connection therewith which appear to the Commission to be of special importance.

(3) The Secretary of State shall lay a copy of every report of the Commission under this section before each House of Parliament and shall arrange for every such report to be published in such manner as he may consider appropriate.

Industrial Arbitration Board

PART VI
Existing Industrial Court renamed Industrial Arbitration Board. 1919 c. 69.

124.—(1) The body established by Part I of the Industrial Courts Act 1919 as a standing Industrial Court shall, as from the commencement of this Act, be known as the Industrial Arbitration Board.

(2) Without prejudice to any express amendment made by this Act, any reference to the Industrial Court in any enactment passed before this Act, or in any statutory instrument having effect by virtue of such an enactment, shall be construed as a reference to the Industrial Arbitration Board.

Claim to Industrial Arbitration Board in pursuance of order under s. 105(5).

125.—(1) The provisions of this section shall have effect where, on a complaint presented to the Industrial Court under section 101 of this Act, the Court has made an order authorising the presentation of a claim to the Industrial Arbitration Board under this section.

(2) Such a claim may be presented—

(*a*) by the trade union which presented the complaint to the Industrial Court, or

(*b*) if that complaint was presented by a joint negotiating panel, by any trade union represented on that panel.

(3) Any such claim (which shall be in writing) shall be a claim that, in respect of one or more descriptions of employees specified in the claim, the terms and conditions of employment to be observed by the employer specified in the order should be, or should include, such terms and conditions as are specified in the claim.

(4) The descriptions of employees specified in a claim under this section shall be limited to descriptions of employees comprised in the bargaining unit defined in the order under section 50 of this Act in consequence of which the Industrial Court was empowered to authorise the claim under this section to be made.

Claim to Industrial Arbitration Board in pursuance of order under s. 102(2)(*c*).

126.—(1) Where, on a complaint presented to the Industrial Court under section 102 of this Act relating to a contravention on the part of an employer of his duty under section 56 of this Act, the Industrial Court has made an order authorising the presentation of a claim to the Industrial Arbitration Board under this section, such a claim may be presented by the trade union which presented the complaint to the Industrial Court.

(2) Any such claim (which shall be in writing) shall be a claim that, in respect of one or more descriptions of employees

specified in the claim, the terms and conditions of employment to be observed by the employer specified in the order should be, or should include, such terms and conditions as are specified in the claim.

(3) The descriptions of employees specified in a claim under this section shall be limited to those descriptions of employees who are represented, for the purposes of the collective bargaining in question, by the trade union representatives (within the meaning of section 56 of this Act) with whom that collective bargaining is carried on.

Award of Industrial Arbitration Board on claim under s. 125 or s. 126.

127.—(1) If, on consideration of a claim under section 125 or section 126 of this Act, the Industrial Arbitration Board determines, in respect of all or one or more of the descriptions of employees specified in the claim, that the terms and conditions of employment to be observed by the employer should be, or should include, either—

(*a*) those specified in the claim, or

(*b*) other terms and conditions which are considered by the Board to be more appropriate than those so specified,

the Board shall make an award under this section.

(2) Any such award shall specify the descriptions of employees to whom it applies, and the terms and conditions to be observed, and shall require the employer to observe those terms and conditions in relation to employees of his falling within those descriptions.

(3) Any terms and conditions so specified in an award under this section, in so far as they are not expressly included in the contract of employment of any employee of a description specified in the award, shall be implied in that contract; and those terms and conditions (whether expressly included in that contract or implied in it) shall, as from such date as may be specified in the award, have effect as part of that contract except in so far as they are subsequently superseded or varied—

(*a*) by agreement (whether express or implied) between the employer and the employee, or

(*b*) by a subsequent award made by the Industrial Arbitration Board (whether under this Act or under any other Act) which applies to a description of employees which includes that employee.

(4) The date specified in an award under this section may be a date earlier than that on which the award is made, but—

(*a*) in the case of an award made on a claim under section 125 of this Act, shall not be earlier than the date on which, in accordance with the finding of the Industrial

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Court on the complaint under section 101 of this Act, the unfair industrial practice to which the complaint relates first occurred, and

(*b*) in the case of an award made on a claim under section 126 of this Act, shall not be earlier than the date (or, if more than one, the earliest date) on which, in accordance with the finding of the Industrial Court on the complaint under section 102 of this Act, the employer was in breach of his duty under section 56 of this Act.

PART VII

RESTRICTIONS ON LEGAL PROCEEDINGS

Proceedings in contract

No compulsion to work or to take part in industrial action.

128.—(1) 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,

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

1875 c. 90.

(2) Any power conferred on a court by the Employers and Workmen Act 1875—

(*a*) to accept security for the performance of a person's contract, or

(*b*) having accepted such security, to order performance of the contract accordingly,

shall cease to be exercisable.

(3) No court shall, by granting an injunction or interdict restraining an employee from working in accordance with a lawful contract of employment, compel him to take part in a strike or in any irregular industrial action short of a strike.

Collective agreements.

129.—(1) Subject to the next following subsection, no court other than the Industrial Court shall entertain any proceedings brought by a party to a collective agreement against another party to it, if the purpose or principal purpose of the proceedings is—

(*a*) to obtain a decision of the court on the construction or effect of the collective agreement, or

(*b*) to enforce the collective agreement or claim damages for a breach of it.

(2) The preceding subsection does not apply to any proceedings on, or in consequence of, an appeal from a decision or order of the Industrial Court.

PART VII
Unfair industrial practice in breach of contract of employment.
1925 c. 49.
1959 c. 22.

130.—(1) The power to make rules of court under section 99 of the Supreme Court of Judicature (Consolidation) Act 1925, and the power to make county court rules under section 102 of the County Courts Act 1959, shall each include power by any such rules to make provision for enabling the court in which any action for damages is pending, on the application of any party to the action, to stay the action if the court is satisfied—

(*a*) that the action relates to an employee's contract of employment;

(*b*) that proceedings on a complaint presented under Part VI of this Act by the employee against the same employer are pending before an industrial tribunal or the Industrial Court; and

(*c*) that by virtue of an order made under section 113 of this Act an industrial tribunal would have jurisdiction to hear and determine a claim for the damages claimed in the action.

(2) The Court of Session shall have power by Act of Sederunt to make provision enabling a court to sist an action in the circumstances described in the preceding subsection.

(3) Except as provided by rules or Act of Sederunt in accordance with the preceding provisions of this section, nothing in this Act shall prevent an employee from—

(*a*) presenting and prosecuting a complaint under Part VI of this Act, and

(*b*) bringing an action in respect of any breach of his contract of employment,

notwithstanding that the matters to which the complaint relates are the same as those alleged to constitute the breach of contract.

Proceedings in tort

Avoidance of encroachment on jurisdiction of Industrial Court or of industrial tribunals.

131.—(1) Where in any court proceedings in tort are brought against a person in respect of any act done by him or on his behalf, the court may stay the proceedings if it is satisfied that either of the conditions specified in the next following subsection is fulfilled in relation to that act.

(2) Those conditions are—

(*a*) that the act is one in respect of which proceedings under this Act have been brought before the Industrial Court or an industrial tribunal, whether those proceedings have been disposed of or not;

(*b*) that the act is one in respect of which (as being an unfair industrial practice or a breach of a duty imposed by or

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under this Act) proceedings under this Act could be brought before the Industrial Court or an industrial tribunal.

(3) Where in any court proceedings in tort are brought against a person in respect of any act alleged to be threatened or intended to be done by him, the court may stay the proceedings if it is satisfied that the act so alleged is one in respect of which, if it were done, proceedings under this Act could be brought before the Industrial Court or an industrial tribunal.

(4) In relation to any proceedings in tort brought—

(*a*) against the trustees of a trade union or employers' association, sued in their capacity as such trustees, or

(*b*) against any members or officials of a trade union or employers' association, sued on behalf of themselves and all other members (or, in the case of officials who are not members, on behalf of themselves and all the members) of the trade union or association,

in respect of any act done, or alleged to be threatened or intended to be done, by or on behalf of the trade union or association, subsection (1) or (as the case may be) subsection (3) of this section shall have effect as if the proceedings were brought against the trade union or association.

Acts in contemplation or furtherance of industrial dispute.

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

(*a*) that it induces another person to break a contract to which that other person is a party or prevents another person from performing such a contract, or

(*b*) that it consists in his threatening that a contract (whether one to which he is a party or not) will be broken or will be prevented from being performed, or that he will induce another person to break a contract to which that other person is a party or will prevent another person from performing such a contract.

(2) For the avoidance of doubt it is hereby declared than an act done by a person in contemplation or furtherance of an industrial 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) An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of an industrial dispute shall not be actionable in tort, if the act in question is one which, if done without any such agreement or combination, would not be actionable in tort.

(4) Where in any court proceedings in tort are brought in respect of an agreement or combination by two or more persons to do or procure to be done an act in contemplation or furtherance of an industrial dispute, and subsection (3) of this section does not afford a defence to the proceedings, the court shall nevertheless stay the proceedings if it is satisfied that either of the conditions specified in section 131(2) of this Act is fulfilled in relation to the act in question.

Criminal (or criminal and civil) proceedings

Gas, water and electricity workers. 1875 c. 86. 1919 c. 100.

133. Section 4 of the Conspiracy, and Protection of Property Act 1875 (which provides for imposing penalties in certain circumstances on persons employed in the supply of gas or water who break their contracts of service), and section 31 of the Electricity (Supply) Act 1919 (which extended that section to persons employed in the supply of electricity), shall cease to have effect.

Peaceful picketing.

134.—(1) The provisions of this section shall have effect where one or more persons (in this section referred to as " pickets "), in contemplation or furtherance of an industrial dispute, attend at or near—

(*a*) a place where a person works or carries on business, or

(*b*) any other place where a person happens to be, not being a place where he resides,

and do so only for the purpose of peacefully obtaining information from him or peacefully communicating information to him or peacefully persuading him to work or not to work.

(2) In the circumstances specified in the preceding subsection, the attendance of the pickets at that place for that purpose—

(*a*) shall not of itself constitute an offence under section 7 of the Conspiracy, and Protection of Property Act 1875 (penalty for intimidation or annoyance by violence or otherwise) or under any other enactment or rule of law, and

(*b*) shall not of itself constitute a tort.

Illegality on grounds of restraint of trade excluded.

135. The purposes of any trade union or other organisation of workers, of any employers' association or other organisation of employers or of any body to which section 35 of this Act applies shall not, by reason only that they are in restraint of trade, be unlawful, so as—

(*a*) to make any member of the organisation or body liable to criminal proceedings for conspiracy or otherwise, or

(*b*) to make any agreement or trust void or voidable.

PART VII

Supplementary

General restriction on jurisdiction of Industrial Court.

136. The Industrial Court shall not have any jurisdiction except that which is expressly conferred on it by or under this Act; and accordingly that Court—

(*a*) shall not entertain any proceedings in tort, and

(*b*) shall not entertain any proceedings brought by a party to a collective agreement or any other contract for the purpose of enforcing the contract or obtaining any remedy in respect of it, other than proceedings on or in consequence of a complaint, application or appeal under Part VI of this Act.

Application of Part VII to Scotland.

137. In the application of this Part of this Act to Scotland—

(*a*) " tort " means any wrongful or negligent act or omission giving rise to liability in reparation, and " proceedings in tort " and " actionable in tort " shall be construed accordingly;

(*b*) " stay " means " sist ".

PART VIII

EMERGENCY PROCEDURES

Application to Industrial Court with a view to discontinuing or deferring industrial action.

138.—(1) Where it appears to the Secretary of State—

(*a*) that, in contemplation or furtherance of an industrial dispute, industrial action, consisting of a strike, any irregular industrial action short of a strike, or a lock-out, has begun or is likely to begin;

(*b*) that the condition specified in the next following subsection is fulfilled; and

(*c*) that, having regard to all the circumstances of the industrial dispute, it would be conducive to a settlement of it by negotiation, conciliation or arbitration if the industrial action were discontinued or deferred,

the Secretary of State may apply to the Industral Court for an order under the next following section.

(2) The condition referred to in paragraph (*b*) of the preceding subsection is that the industrial action in question has caused, or (as the case may be) would cause, an interruption in the supply of goods or in the provision of services of such a nature, or on such a scale, as to be likely—

(*a*) to be gravely injurious to the national economy, to imperil national security or to create a serious risk of public disorder, or

(*b*) to endanger the lives of a substantial number of persons, or expose a substantial number of persons to serious risk of disease or personal injury.

(3) Any application made by the Secretary of State under this section—

(*a*) where it relates to a strike, or to irregular industrial action short of a strike, shall specify the persons (whether they are organisations of workers, officials of such organisations or other persons) appearing to the Secretary of State to be responsible for calling, organising, procuring or financing the strike or other action in question, or for a threat to do so, and

(*b*) where it relates to a lock-out, shall specify the persons (whether they are employers, organisations of employers or other persons) appearing to the Secretary of State to be responsible for instituting, carrying on, organising, procuring or financing the lock-out, or for a threat to do so;

and the persons so specified shall, together with the Secretary of State, be the parties to any proceedings on that application.

Order of Industrial Court on application under s. 138.

139.—(1) Where an application is made to the Industrial Court under section 138 of this Act, the Court, subject to its being satisfied on the evidence that there are sufficient grounds for believing that the condition specified in subsection (2) of that section is fulfilled, shall make an order under this section.

(2) Any such order shall specify—

(*a*) the area of employment in respect of which the order is to have effect, that area being defined in the order by reference to (or to any combination of) any of the following, that is to say, one or more industries specified in the order, one or more undertakings or parts of undertakings so specified, and one or more descriptions of workers so specified;

(*b*) the persons who are to be bound by the order, who (subject to the next following subsection) shall be the persons specified in the application in accordance with section 138(3) of this Act; and

(*c*) the date on which the order is to take effect and the period, not exceeding sixty days, for which the order is to remain in force.

(3) The persons specified in pursuance of subsection (2)(*b*) of this section in an order relating to a strike, or to any irregular

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industrial action short of a strike, shall not include any person who in the opinion of the Industrial Court (notwithstanding that he is specified in the application for the order)—

(*a*) has, or (as the case may be) would have, no responsibility for the strike or other action in question beyond that of being included among the persons taking part in it, or

(*b*) has no responsibility for calling, organising, procuring or financing the strike or other action in question, or for threatening to do so, except in his capacity as an official of a trade union acting within the scope of his authority on behalf of the trade union.

(4) An order under this section made on an application relating to a strike, or to irregular industrial action short of a strike, shall be an order directing that, during the period for which the order remains in force, no person specified in the order in accordance with paragraph (*b*) of subsection (2) of this section shall—

(*a*) call, organise, procure or finance a strike, or threaten to do so, or

(*b*) organise, procure or finance any irregular industrial action short of a strike, or threaten to do so,

within the area of employment specified in the order in accordance with paragraph (*a*) of that subsection or any part of that area.

(5) An order under this section made on an application relating to a lock-out shall be an order directing that, during the period for which the order remains in force, no person specified in the order in accordance with paragraph (*b*) of subsection (2) of this section shall institute, carry on, authorise, organise or finance a lock-out, or threaten to do so, within the area of employment specified in the order in accordance with paragraph (*a*) of that subsection or any part of that area.

(6) An order under this section may also require any one or more of the persons specified in the order, before the end of such period as may be specified in the order for the purposes of this subsection, to take such steps (whether by way of withdrawing or securing the withdrawal of any instructions issued by or on behalf of that person or those persons or otherwise) as may be so specified for the purpose of securing that the industrial action to which the application for the order related is discontinued or (as the case may be) deferred during the period for which the order remains in force.

(7) Any order under this section shall indicate the scope of the industrial dispute in consequence of which the order is made,

in such manner as may appear to the Industrial Court to be sufficient to indicate the area of employment affected by the dispute and the extent of the matters to which the dispute relates. PART VIII

Supplementary provisions where order made under s. 139.

140.—(1) The provisions of this section shall have effect where an order (in this section referred to as " the principal order ") has been made under section 139 of this Act.

(2) If the period specified in the principal order in accordance with section 139(2)(*c*) of this Act (or that period as previously extended under this subsection) is less than sixty days, then at any time before the end of that period the Industrial Court, on the application of the Secretary of State, may by order extend that period, but not so as to exceed sixty days in all.

(3) Where at a time within the period for which the principal order is in force it appears to the Secretary of State, that persons other than those specified in the principal order in accordance with subsection (2)(*b*) of section 139 of this Act—

(*a*) are at that time responsible as mentioned in paragraph (*a*) or paragraph (*b*) of section 138(3) of this Act, but

(*b*) are not then persons required to be excluded from the order in accordance with section 139(3) of this Act,

the Secretary of State may make an application to the Industrial Court, specifying those persons and applying for the principal order to be extended to them; and the persons so specified shall, together with the Secretary of State, be the parties to any proceedings on that application.

(4) Subject to the next following subsection, on any application made by the Secretary of State under subsection (3) of this section the Industrial Court shall make an order specifying the persons who were specified in the application and directing that, in relation to any time after the order under this subsection takes effect, the principal order, while it remains in force, shall have effect as if those persons had been included among the persons specified in the principal order in accordance with section 139(2)(*b*) of this Act.

(5) The Industrial Court shall not make an order under subsection (4) of this section after the end of the period specified in the principal order, and, where it makes an order under that subsection, shall not include in it any person required to be excluded in accordance with section 139(3) of this Act.

(6) In relation to any person to whom the principal order applies by virtue of an order made under subsection (4) of this

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section (in this subsection referred to as "the supplementary order") the supplementary order may impose any requirement which, in pursuance of section 139(6) of this Act, could have been imposed on him by the principal order if—

(*a*) the principal order had been made at the time when, and in the circumstances in which, the supplementary order is made, and

(*b*) he were one of the persons specified in the principal order.

(7) After the period specified in the principal order has begun, the Industrial Court shall not, either during that period or at any time thereafter, entertain any application under section 138 of this Act in respect of the same industrial dispute, or in respect of any other industrial dispute in so far as it appears to the Court that its scope falls within the scope (as indicated in the principal order in accordance with section 139(7) of this Act) of the industrial dispute in consequence of which the principal order was made.

Application to Industrial Court for order for ballot relating to industrial action.

141.—(1) Where it appears to the Secretary of State—

(*a*) that in contemplation or furtherance of an industrial dispute a strike or any irregular industrial action short of a strike has begun or is likely to begin;

(*b*) that either or both of the conditions specified in the next following subsection are fulfilled; and

(*c*) that there are reasons for doubting whether the workers who are taking part or are expected to take part in the strike or other industrial action are or would be taking part in it in accordance with their wishes, and whether they have had an adequate opportunity of indicating their wishes in this respect,

the Secretary of State may apply to the Industrial Court for an order requiring a ballot to be taken.

(2) The conditions referred to in paragraph (*b*) of the preceding subsection are—

(*a*) the condition specified in section 138(2) of this Act; and

(*b*) the condition that the effects of the industrial action in question on a particular industry are, or are likely to be, such as to be seriously injurious to the livelihood of a substantial number of workers employed in that industry.

(3) Any application under this section shall specify the persons (whether they are organisations of workers, officials of such organisations or other persons) appearing to the Secretary of

State to be responsible for calling, organising, procuring or financing the strike or other action in question, or for a threat to do so; and the persons specified in the application in accordance with this subsection shall, together with the Secretary of State, be the parties to any proceedings on that application.

(4) Before making any application under this section, the Secretary of State shall, so far as appears to him to be practicable in the circumstances, consult every employer, trade union or employers' association appearing to him to be a party to the industrial dispute in question.

Order of Industrial Court on application under s. 141.

142.—(1) Where an application is made to the Industrial Court under section 141 of this Act, the Court, subject to its being satisfied on the evidence that there are sufficient grounds for believing that either or both of the conditions mentioned in subsection (2) of that section are fulfilled, shall order a ballot to be taken.

(2) Any such order shall specify—

(*a*) the area of employment in relation to which the ballot is to be taken, that area being defined in the order by reference to (or to any combination of) any of the following, that is to say, one or more industries specified in the order, one or more undertakings or parts of undertakings so specified, and one or more descriptions of workers so specified;

(*b*) the question on which the ballot is to be taken; and

(*c*) the period within which the result of the ballot is to be reported to the Industrial Court.

(3) The order shall include provisions for enabling the workers eligible to vote in the ballot to be determined; and those provisions shall be formulated in such manner as in the opinion of the Industrial Court will secure that all workers falling within the area of employment specified in the order in accordance with subsection (2)(*a*) of this section will be eligible to vote.

(4) Any order under this section shall indicate the scope of the industrial dispute in consequence of which the order is made, in such manner as may appear to the Industrial Court to be sufficient to indicate the area of employment affected by the dispute and the extent of the matters to which the dispute relates.

(5) The Industrial Court may, if it thinks fit, invite the assistance of the Commission in formulating any order under this section.

PART VIII
Provisions pending result of ballot ordered under s. 142.

143.—(1) Where the Industrial Court makes an order under section 142 of this Act, the order shall include provisions directing that, during the period beginning with the date on which the order takes effect and ending with the date on which the result of the ballot is reported to the Court,—

(*a*) no organisation of workers or other person specified in the order shall, or shall threaten to, call, organise, procure or finance a strike of any of the workers eligible to vote in the ballot or organise, procure or finance any irregular industrial action short of a strike on the part of any of those workers;

(*b*) no employer, organisation of employers or other person shall institute, carry on, organise, procure or finance a lock-out of any of those workers or threaten to do so.

(2) The order may also require any organisation or other person specified in the order in accordance with subsection (1)(*a*) of this section, to take all such steps (whether by way of withdrawing or securing the withdrawal of any instructions issued by or on behalf of the organisation or by that person or otherwise) as may be specified in the order for the purpose of securing that the strike or other industrial action to which the ballot is to relate is discontinued or (as the case may be) deferred during the period specified in the preceding subsection.

(3) Subject to the following provisions of this section, the persons (whether organisations of workers or other persons) specified in the order in accordance with subsection (1)(*a*) of this section shall be the persons specified in the application in accordance with section 141(3) of this Act.

(4) If at any time during the period mentioned in subsection (1) of this section it appears to the Secretary of State that persons other than those specified in the order (in the following provisions of this section referred to as " the principal order ") in accordance with paragraph (*a*) of that subsection are at that time responsible as mentioned in section 141(3) of this Act, the Secretary of State may make an application to the Industrial Court, specifying those persons and applying for the principal order to be extended to them; and the persons so specified shall, together with the Secretary of State, be the parties to any proceedings on that application.

(5) Subject to the next following subsection, on any application made by the Secretary of State under subsection (4) of this section the Industrial Court shall make an order specifying the persons who were specified in the application and directing that, in relation to any time after the order under this subsection takes effect and before the result of the ballot to be taken under the principal order has been reported to the Court, the principal

order shall have effect as if those persons had been included among the persons specified in the principal order in accordance with subsection (1)(*a*) of this section.

(6) The persons specified in the principal order in pursuance of subsection (1)(*a*) of this section, and any persons specified in an order under subsection (5) of this section, shall not include any person who in the opinion of the Industrial Court (notwithstanding that he is specified in the application for the order)—

(*a*) has, or (as the case may be) would have, no responsibility for the strike or other action in question beyond that of being included among the persons taking part in it, or

(*b*) has no responsibility for calling, organising, procuring or financing the strike or other action in question, or for threatening to do so, except in his capacity as an official of a trade union acting within the scope of his authority on behalf of the trade union.

(7) On and after the date on which the principal order takes effect, the Industrial Court shall not (whether before or after the date on which the result of the ballot is reported to the Court) entertain any application under section 141 of this Act in respect of the same industrial dispute, or in respect of any other industrial dispute in so far as it appears to the Court that its scope falls within the scope (as indicated in that order in accordance with section 142(4) of this Act) of the industrial dispute in consequence of which that order was made.

Conduct of ballot.

144.—(1) The provisions of this section shall have effect where an application under section 141 of this Act has been made in relation to an industrial dispute, and on that application the Industrial Court has ordered a ballot to be taken.

(2) If all or some of the workers eligible to vote in the ballot are members of a trade union which—

(*a*) is recognised by an employer who is a party to the industrial dispute as having negotiating rights in relation to those workers, and

(*b*) is a trade union whose rules have been approved by the registrar under Part IV of this Act,

the Commission may request that trade union to conduct the ballot in relation to those workers.

(3) If the trade union accepts the invitation it shall, under the supervision of the Commission, conduct the ballot in relation to those workers in accordance with its rules.

PART VIII

(4) Except as provided by the preceding provisions of this section, the ballot shall be conducted either by the Commission or by some other body under the supervision of the Commission, and in either case shall be conducted in accordance with such rules as the Commission may direct for the purpose of securing that the ballot will be properly conducted and that the voting in the ballot will be kept secret.

(5) The Commission shall pay to a trade union the amount of any expenses reasonably incurred by the trade union in conducting a ballot in pursuance of subsection (3) of this section.

Supplementary provisions as to conduct and result of ballot.

145.—(1) The Commission shall be responsible for securing that, in any ballot taken in pursuance of an order made under section 142 of this Act, the question on the ballot papers is in accordance with the order.

(2) If, in connection with any such ballot, any question arises as to the way in which the order should be interpreted or applied,—

(*a*) the question shall, on the application of any person who was a party to the proceedings before the Industrial Court, or on the application of the Commission, be determined by that Court, but

(*b*) subject to any decision of the Industrial Court on such an application, the question shall be determined by the Commission.

(3) In so far as any such ballot is conducted by a trade union, it shall be the duty of the trade union to report its result to the Commission.

(4) The Commission shall report to the Industrial Court the result of any such ballot, and the Industrial Court shall arrange for that result to be published in such manner as the Court may consider appropriate.

PART IX

MISCELLANEOUS AND SUPPLEMENTARY

Conciliation officers.

146.—(1) The Secretary of State shall appoint officers to perform on his behalf the functions specified in the following provisions of this section, subject to the approval of the Minister for the Civil Service as to their numbers and as to their terms and conditions of service; and in this Act "conciliation officer" means an officer so appointed.

(2) Where a complaint has been presented to an industrial tribunal under section 106 of this Act, 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 employee who presented the complaint, 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 subsection 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 employee has ceased to be employed by the employer against whom the complaint was made,—

(*a*) the conciliation officer shall in particular seek to promote re-engagement of the employee 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 re-engagement or engagement is not practicable or cannot be agreed between the parties to the complaint, 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 employee.

(4) Where at any time—

(*a*) after an employee has ceased to be employed by an employer, in circumstances where the employee claims that he was unfairly dismissed, or that other action on the part of the employer, or of a person acting on behalf of the employer, constituted an unfair industrial practice in accordance with section 5 of this Act, but

(*b*) before any complaint relating to that claim has been presented by the employee under section 106 of this Act,

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 subsections (2) and (3) of this section as if a complaint had been presented in pursuance of that claim.

(5) At any time when an order under section 113 of this Act is in force, the Secretary of State may direct conciliation officers to perform such services, in relation to claims for damages in respect of which jurisdiction is conferred on industrial tribunals by the order, as may be specified in the directions.

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

(7) Nothing in this section shall be construed as derogating from any powers or duties of the Secretary of State under any other enactment.

Effect of strike notice.

147.—(1) Due notice given by or on behalf of an employee of his intention to take part in a strike shall not, unless it otherwise expressly provides, be construed—

(*a*) as a notice to terminate his contract of employment, or

(*b*) as a repudiation of that contract.

(2) Subject to the next following subsection, where an employee takes part in a strike after due notice of his intention to do so has been given by him or on his behalf, his action in taking part in the strike shall not be regarded as a breach of his contract of employment for the purposes of—

(*a*) any proceedings in contract brought against the employee in respect of breach of that contract, or

(*b*) any proceedings in tort, whether brought against the employee or brought against any other person, or

1875 c. 86.

(*c*) section 5 of the Conspiracy, and Protection of Property Act 1875 (breach of contract involving injury to persons or property), or

(*d*) section 96 of this Act.

(3) Subsection (2) of this section shall not apply to any action by an employee which is contrary to a term of his contract of employment (including any term implied or incorporated in that contract by reference to a collective agreement) excluding or restricting his right to take part in a strike.

(4) Nothing in subsection (2) of this section shall be taken to exclude or restrict any right which an employer would have apart from that subsection to dismiss (with or without notice) an employee who takes part in a strike.

(5) In this section " due notice ", in relation to an employee, means notice of a duration not less than that which (whether by virtue of any enactment or otherwise) he would be required to give to terminate his contract of employment.

(6) In the application of this section to Scotland, " proceedings in tort " shall be construed in accordance with section 137(*a*) of this Act.

PART IX

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

1944 c. 31.

148.—(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, sections 22 and 24 and subsections (1) to (3) and subsection (5) of section 106 of this Act shall have effect in relation to the dismissal as if—

(*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 section 106 of this Act as applied by the preceding subsection, section 116 of this Act shall have effect as if—

(*a*) in subsection (4)(*b*), for the words " the employer in question refused or failed to make such an offer, and the tribunal or Court 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 or Court considers that they acted unreasonably in doing so ", and

(*b*) in subsection (5), any reference to the employer were a reference to the local education authority.

Race Relations Act 1968.

1968 c. 71.

149.—(1) Where under the Race Relations Act 1968 a complaint is made to the Secretary of State or the Race Relations Board that action has been taken 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 action has been taken, then, if it appears to the Secretary of State or the Board—

(*a*) that the action in question is action in respect of which a complaint has been presented to an industrial tribunal under section 106 of this Act, 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 sections 27 to 31 of this

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Act, 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 action, except to the extent provided by the following provisions of this section.

(2) If, on determining a complaint presented under section 106 of this Act in respect of the action in question, an industrial tribunal or the Industrial Court has recorded a finding that the action was taken against the complainant and constituted an unfair industrial practice (whether by way of unfair dismissal or otherwise) and also that the reason, or one of the reasons, for which it was taken was the complainant's colour, race or ethnic or national origins, then the preceding subsection 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 paragraph 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 paragraph (*a*) or paragraph (*b*) of subsection (2) of this section notwithstanding any limitation imposed by the Race Relations Act 1968 as to the time within which anything may be done under that Act.

1968 c. 71.

(4) In this section 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.

Redundancy payments.

150.—(1) Regulations made by the Secretary of State may make provision with respect to cases where a complaint relating to dismissal is presented to an industrial tribunal under section 106 of this Act, and a redundancy payment or an equivalent payment has been paid, or has been or is claimed, in respect of the same dismissal.

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

(*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.

(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 section 106 of the Industrial Relations Act 1971 ".

(4) In this section " redundancy payment " has the same meaning as in the Redundancy Payments Act 1965, and " 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 that Act, or

(*b*) a payment in respect of the termination of a person's employment, made in accordance with any provision of the Superannuation Act 1965 or in accordance with any such arrangements as are mentioned in section 41(3) of the Redundancy Payments Act 1965. 1965 c. 74.

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

Period of continuous employment. 1963 c. 49.

151.—(1) The provisions of Schedule 1 to the Contracts of Employment Act 1963 (computation of period of employment), and the provisions of any order for the time being in force under section 7 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 Act a person's employment during any period shall, unless the contrary is shown, be presumed to have been continuous.

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(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 1963, or for the purposes of that Schedule as applied by or under any other enactment specified in the regulations, or

1963 c. 49.

(*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 the next following subsection 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 subsection 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 section 106 of this Act, or

(*b*) of his making a claim in accordance with the procedure provided for by a procedure agreement designated by an order under section 31 of this Act, or

(*c*) of any action taken by a conciliation officer under section 146(4) of this Act.

Claims under Terms and Conditions of Employment Act 1959, s. 8. 1959 c. 26.

152.—(1) No action under section 8 of the Terms and Conditions of Employment Act 1959 (settlement of claims as to recognised terms or conditions of employment) shall be taken on a claim unless it has been reported to the Secretary of State by a trade union or an employers' association.

(2) Claims shall not be precluded from being reported under that section by reason only that they are in respect of workers whose remuneration or minimum remuneration is fixed under the Wages Councils Act 1959.

1959 c. 69.

(3) In accordance with the preceding subsections, section 8 of the Terms and Conditions of Employment Act 1959 shall be amended as mentioned in Part I of Schedule 7 to this Act.

(4) The Terms and Conditions of Employment Act 1959 (as amended, and with the omission of repealed provisions) shall have effect as set out in Part II of that Schedule.

PART IX
Recovery of sums awarded in proceedings involving trade union or employers' association.

153.—(1) Where in any proceedings (whether brought by virtue of this Act or otherwise) an award of compensation or damages, or for the payment of any costs or expenses,—

(*a*) is made against a trade union or an employers' association, or

(*b*) is made against the trustees of a trade union or employers' association in their capacity as such trustees and is not made in respect of a breach of trust on their part, or

(*c*) is made against members or officials of a trade union or employers' association, where the proceedings are brought against them on behalf of themselves and all other members (or, in the case of officials who are not members, on behalf of themselves and all the members) of the trade union or employers' association,

recovery of any such compensation, damages, costs or expenses shall not be enforceable against any property to which this subsection applies.

(2) Subsection (1) of this section applies to any property—

(*a*) belonging to any trustee of the trade union or employers' association otherwise than in his capacity as such a trustee, or

(*b*) belonging to any member of the trade union or employers' association otherwise than jointly or in common with the other members of it, or

(*c*) belonging to any official of the trade union or employers' association who is neither a member nor a trustee of it,

and also applies to any property comprised in any fund belonging to the trade union or employers' association, if under the rules of the trade union or employers' association property which is or has been comprised in that fund is precluded from being used for financing strikes, lock-outs or other industrial action.

(3) Except as provided by subsection (1) of this section, any judgment, order or award which is made against a trade union or an employers' association in any proceedings (whether brought by virtue of this Act or otherwise) shall be enforceable against any property belonging to, or held in trust for, the trade union or employers' association.

(4) In this and the next following section—

(*a*) "property" includes any money, securities or other assets;

(*b*) any reference to a trade union or employers' association shall be construed as including a reference to any organisation which is for the time being entered in the provisional register.

PART IX
Proceedings against unregistered organisations.

154.—(1) This section applies to any organisation of workers which is not a trade union, and to any organisation of employers which is not an employers' association.

(2) Any civil proceedings (including any proceedings under this Act) may be brought by or against any such organisation in the name of the organisation.

(3) Except as provided by the next following subsection, any judgment, order or award made in any such proceedings against an organisation to which this section applies (including any judgment or order directing the organisation to take, or to refrain or desist from taking, any action) shall be enforceable, by way of execution, diligence, punishment for contempt or otherwise, against any property belonging to, or held in trust for, the organisation, to the like extent and in the like manner as if the organisation were a body corporate.

(4) Recovery of any sum which in any such proceedings is awarded as compensation or damages, or in respect of costs or expenses, against an organisation to which this section applies shall not be enforceable against any property comprised in a fund belonging to or held in trust for the organisation, if under the rules of the organisation property which is or has been comprised in that fund is precluded from being used for financing strikes, lock-outs or other industrial action.

(5) For the purposes of this section property belonging to the organisation shall not include property belonging to any member of the organisation otherwise than jointly or in common with the other members of the organisation.

Nominations by members of trade unions.

155.—(1) The Secretary of State may by regulations 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, at the death of the member making the nomination, to the whole or part of any moneys payable on his death out of any funds of the trade union of which he is a member ; and

(*b*) for enabling any moneys 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.

(2) Any regulations made in accordance with subsection (1)(*a*) of this section—

(*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.

(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 subsection (1)(*a*) of this section may include provision for securing, to such extent and subject to such conditions as may be prescribed,—

(*a*) that nominations made under the enactments repealed by this Act shall have effect as if they had been made under the regulations (and, in the case of any such nominations made by members of organisations which are not for the time being registered as trade unions under this Act, shall so have effect as if the organisations were so registered) and may be varied or revoked accordingly, and

(*b*) that any nomination made under the regulations by a member of an organisation which, at the time of the nomination, is registered as a trade union under this Act shall continue to have effect notwithstanding that the organisation ceases to be so registered, and may be varied or revoked accordingly.

(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, subsection (1)(*b*) of this section 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 subsection (4) of this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(6) In this section any reference to a trade union shall be construed as including a reference to an organisation of workers which is for the time being entered in the provisional register.

Winding up of trade unions, employers' associations and certain other organisations. 1948 c. 38.

156.—(1) For the purposes of the application of Part IX of the Companies Act 1948 to—

(*a*) an organisation in respect of which the Chief Registrar has presented a petition under section 90(4) of this Act, or

(*b*) an organisation whose registration under this Act as a trade union or as an employers' association has been cancelled,

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the organisation shall be regarded as an unregistered company within the meaning of Part IX of that Act, whether apart from this section it would be so regarded or not.

(2) Section 399 of that Act (winding up of unregistered companies) shall have effect in relation to any such organisation as is mentioned in paragraph (*a*) or paragraph (*b*) of the preceding subsection as if—

(*a*) in subsection (3), for the words " place of business ", wherever they occur, there were substituted the word " office " ;

(*b*) in subsection (5)(*a*), the words " or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs " were omitted ; and

(*c*) in subsection (6), in paragraphs (*a*) and (*b*), for the words " at its principal place of business, or by delivering to the secretary or some director, manager or principal officer " there were substituted the words " at its principal office, or by delivering to the secretary or any other officer ".

1948 c. 38.

(3) Except as provided by subsection (1) of this section, Part IX of the Companies Act 1948 shall not have effect in relation to any trade union or employers' association.

(4) An organisation which has been incorporated by virtue of section 74 of this Act shall not be dissolved, except by an order of the court under the Companies Act 1948, until there has been lodged with the registrar a certificate signed by the secretary, or by some other officer of the organisation approved for the purpose by the registrar, that all property vested in the organisation has been duly conveyed or transferred by the organisation to the persons entitled to it.

Restrictions on registration under other Acts.

157.—(1) No organisation of workers shall after the commencement of this Act, and no employers' association shall after being registered as an employers' association under this Act, become registered—

(*a*) as a company under the Companies Act 1948, or

1896 c. 25.

(*b*) under the Friendly Societies Act 1896, or

1965 c. 12.

(*c*) under the Industrial and Provident Societies Act 1965.

(2) Any registration of an organisation of workers as a company under the Companies Act 1948, where the registration was effected before the commencement of this Act,—

(*a*) shall become void at the end of the period of six months beginning with the date on which section 85 of this Act comes into operation, unless before the end of that period the organisation makes an application for entry in the special register, and

(*b*) if such an application is so made, shall become void if on that application entry in the special register is refused, unless the decision of the registrar on the application is reversed on or in consequence of an appeal to the Industrial Court.

(3) Except in the case of registration of an organisation of workers as a company under the Companies Act 1948, any registration under any of the Acts specified in subsection (1) of this section— 1948 c. 38.

(*a*) of an organisation of workers, where the registration was effected before the commencement of this Act, or

(*b*) of an employers' association, where the registration was effected before the organisation was registered as an employers' association under this Act,

shall be void.

Immunity of confidential information.

158.—(1) No employer shall, by virtue of section 56 or section 57 of this Act, be required to disclose—

(*a*) any information the disclosure of which would be against the interests of national security, or

(*b*) any information which he could not disclose without contravening a prohibition imposed by or under an enactment (including any enactment contained in this Act), or

(*c*) any information which has been communicated to the employer in confidence, or which the employer has otherwise obtained in consequence of the confidence reposed in him by another person, or

(*d*) any information relating specifically to an individual, unless he has consented to its being disclosed, or

(*e*) any information the disclosure of which would be seriously prejudicial to the interests of the employer's undertaking for reasons other than its effect on collective bargaining, or

(*f*) any information obtained by the employer for the purpose of bringing, prosecuting or defending any legal proceedings.

(2) In preparing under Part I of this Act so much of any code of practice as relates to disclosure of information, the Secretary of State shall have regard to the provisions of subsection (1) of this section and shall formulate that part of that code in accordance with the like principles.

(3) No information given by any person in evidence before the Industrial Court or an industrial tribunal, at a hearing held in private in accordance with Industrial Court rules or industrial

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tribunal regulations, shall be disclosed to any other person except with the consent of the person who gave it in evidence.

(4) If any person discloses any information in contravention of subsection (3) of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

National security.

159.—(1) If on a complaint under section 106 of this Act it is shown that the action to which the complaint relates was taken for the purpose of safeguarding national security, the industrial tribunal or (as the case may be) the Industrial Court 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 Act be conclusive evidence of the fact so certified.

Review of ballot taken under Part II or Part III.

160.—(1) This section applies to any ballot for which arrangements have been made by the Commission under any of the provisions of Part II or Part III of this Act, whether the ballot is to be taken by the Commission or by some other body.

(2) If, in accordance with Industrial Court rules made for the purposes of this section, the Industrial Court finds, in the case of a ballot to which this section applies, that the report made to the Court by the Commission as to the result of the ballot was incorrect, and that it would be just and equitable in the circumstances to amend the report so as to rectify the error without requiring a further ballot to be taken,—

(*a*) the Court may make an order amending the report accordingly, and

(*b*) where such an order has been made, the report shall have effect for the purposes of this Act as if it had been made as amended by the order.

(3) If, in accordance with Industrial Court rules made for the purposes of this section, the Industrial Court finds, in the case of a ballot to which this section applies,—

(*a*) that the ballot was so misconducted that it would not be just and equitable to regard it as valid, or

(*b*) that the report made to the Court by the Commission as to the result of the ballot was incorrect and that in the circumstances it would not be just and equitable to

rectify the error in accordance with subsection (2) of this section,

the Court shall make an order quashing the ballot and so much of the report of the Commission as relates to the result of the ballot, and, if an order has already been made by the Court in consequence of that report, revoking that order.

(4) Where the Industrial Court has made an order under subsection (3) of this section, the provisions of Part II or Part III of this Act under which the arrangements for the ballot were made shall have effect as if the ballot had not been taken.

(5) Any reference in this section to Part II of this Act shall be construed as including a reference to Schedule 1 to this Act.

Restrictions on contracting out.

161.—(1) Except as provided by the next following subsection, 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 enactment contained in this Act, or

(*b*) to preclude any person from presenting a complaint to or bringing any proceedings before the Industrial Court or an industrial tribunal under this Act.

(2) Subsection (1) of this section shall not apply—

(*a*) to any agency shop agreement or any approved closed shop agreement;

(*b*) to any provision contained in an agreement in accordance with section 30(*b*) of this Act;

(*c*) to any provision in a collective agreement excluding rights under section 22 of this Act, if that provision is not to have effect unless an order under section 31 of this Act is for the time being in force in respect of it;

(*d*) to any agreement to refrain from presenting a complaint under section 106 of this Act, where in compliance with a request under subsection (4) of section 146 of this Act a conciliation officer has taken action in accordance with that subsection;

(*e*) to any agreement to refrain from proceeding with a complaint presented under section 106 of this Act, where a conciliation officer has taken action in accordance with subsections (2) and (3) of section 146 of this Act; or

(*f*) to any agreement to refrain from presenting, or from proceeding with, a complaint under section 107 of this Act, where an application under section 81 of this Act has been made to the registrar with respect to the matter to which the complaint relates or, if presented, would relate.

PART IX
Employment under the Crown.

162.—(1) Subject to the following provisions of this section, the provisions of this Act shall have effect in relation to Crown employment and to workers who are Crown employees as they have effect in relation to other employment and to other workers.

(2) In this section (subject to subsection (6)) "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 subsection (1) of this section—

(*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;

1965 c. 62.

(*d*) the reference in section 158(1)(*e*) of this Act to the interests of the employer's undertaking shall be construed as a reference to the national interest; and

(*e*) any other reference to an undertaking shall be construed, in relation to a Minister of the Crown, as a reference to his functions or (as the context may require) to the department of which he is in charge, and, in relation to a government department, shall be construed as a reference to the functions of the department or (as the context may require) to the department.

(4) On a complaint presented under section 101 or section 102(1) of this Act against a Minister of the Crown or a government department, the only remedies available to the Industrial Court shall be those specified in paragraphs (*a*) and (*b*) of section 101(3) or that specified in section 102(2)(*a*) of this Act, as the case may be:

Provided that, where the complaint relates to an unfair industrial practice under section 55(1) of this Act, the only remedy available to the Industrial Court shall be that specified in section 101(3)(*a*) of this Act.

(5) Subsections (4) and (5) of section 110 of this Act shall not have effect in relation to Crown employment.

(6) 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 section; 1965 c. 62.

(*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 section; 1953 c. 50.

and for the purposes of this section Crown employment does not include any employment in respect of which a certificate to which the next following subsection applies is for the time being in force.

(7) This subsection 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 subsection (1) of this section 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.

Regulations, rules and orders.

163.—(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 or rules under this Act shall be exercisable by statutory instrument.

(3) Any statutory instrument whereby any regulations or rules are, or any order is, made under any provision of this Act, other than a provision which requires that a draft of the regulations, rules or order (as the case may be) shall be laid before Parliament before making the regulations, rules or order, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any power conferred on one or more Ministers by any provision of this Act, except section 3(6), to make an order shall include power to revoke or vary the order by a subsequent order made under that provision.

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Financial provisions.

164.—(1) The Secretary of State shall pay all remuneration, allowances or other sums payable under this Act to or in respect of persons who are or have been members of the Commission, and shall defray all expenses duly incurred by the Commission in consequence of the provisions of this Act, including all remuneration, allowances and other sums payable to or in respect of persons who are or have been officers or servants of the Commission.

(2) The Lord Chancellor shall pay all remuneration, allowances and other sums payable under this Act to or in respect of persons who are or have been members of the Industrial Court appointed under section 99(2)(*c*) of this Act or are or have been officers or servants of that Court.

(3) There shall be defrayed out of moneys provided by Parliament—

(*a*) all expenses incurred by the Secretary of State or the Lord Chancellor in consequence of the provisions of this Act;

(*b*) any expenses incurred in consequence of those provisions by any other Minister of the Crown or government department, not being a Minister in or department of the Government of Northern Ireland;

(*c*) the remuneration of, and any travelling or other allowances payable under this Act to, the Chief Registrar, any assistant registrar appointed under this Act, and any other officers or servants of the Chief Registrar, and any expenses duly incurred by the Chief Registrar or any such assistant registrar in consequence of the provisions of this Act;

(*d*) any increase attributable to this Act in the sums payable out of moneys so provided under the Industrial Courts Act 1919 or the Industrial Training Act 1964.

1919 c. 69.
1964 c. 16.

(4) Any sums received in payment of fees under this Act shall be paid into the Consolidated Fund.

Northern Ireland.
1920 c. 67.

165.—(1) Notwithstanding anything in the Government of Ireland Act 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of any provisions of this Act, including the provisions of section 162 of this Act; and it shall be within the power of the Parliament of Northern Ireland to impose or confer duties or powers on the Commission or on the Chief Registrar, whether they are duties or powers similar to those imposed or conferred by this Act or not.

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(2) In sections 121 and 122 of this Act any reference to the Secretary of State, or to a Minister, shall be construed as including a reference to the Minister of Health and Social Services for Northern Ireland (in this section referred to as " the Northern Ireland Minister").

(3) On each occasion when the Commission make a report to the Secretary of State under section 123 of this Act, the Commission shall make a like report to the Northern Ireland Minister; and the Northern Ireland Minister shall lay a copy of every such report before the Senate and House of Commons of Northern Ireland.

(4) Sections 121 and 122 of this Act and subsections (2) and (3) of this section shall be treated for the purposes of section 6 of the Government of Ireland Act 1920 as if they had been passed before the day appointed for that section to come into operation. 1920 c. 67.

(5) In the Government of Ireland (Companies, Societies etc.) Order 1922, in Article 22 (which provides for reciprocal status in respect of societies registered in Northern Ireland and those registered in other parts of the United Kingdom), after the words " Northern Ireland ", in the first place where they occur, there shall be inserted the words " other than a trade union or a branch of a trade union ". S. R. & O. 1922/184.

Meaning of " collective agreement " and " procedure agreement ".

166.—(1) In this Act, subject to the following provisions of this section, " collective agreement " means any agreement or arrangement which is for the time being in force and—

(*a*) is an agreement or arrangement made (in whatever way and in whatever form) by or on behalf of one or more organisations of workers and either one or more employers, one or more organisations of employers, or a combination of one or more employers and one or more organisations of employers, and

(*b*) is either an agreement or arrangement prescribing (wholly or in part) the terms and conditions of employment of workers of one or more descriptions, or an agreement or arrangement relating to one or more of the matters specified in subsection (5) of this section, or both.

(2) Where by virtue of section 35 of this Act a decision of a joint body to which that section applies is presumed to be intended to have effect as a legally enforceable contract, then in this Act—

(*a*) any reference to a collective agreement, or to a collective agreement having effect as a legally enforceable contract, shall include that decision, and

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(*b*) any reference to a party to a collective agreement, or to a party to a collective agreement which is a legally enforceable contract, shall be construed, in relation to that decision, as including a reference to any of the constituent parties.

(3) In this Act any reference to a collective agreement shall be construed as including a reference to any provisions which, by virtue of an order under section 41 of this Act which is for the time being in force, have effect as a legally enforceable contract in accordance with subsection (2) of that section, and any reference to a party to a collective agreement shall be construed accordingly.

(4) Where a collective agreement—

(*a*) is made by representatives either of two or more employers or of one or more organisations of employers or of a combination of one or more employers and one or more organisations of employers, and is so made on behalf of all the parties so represented or on behalf of one or more of them specified in the collective agreement, or

(*b*) is made by representatives of one or more organisations of workers and is made on behalf of those organisations or on behalf of one or more of them specified in the collective agreement,

then for the purposes of this Act each employer, each organisation of employers and each organisation of workers on whose behalf the collective agreement is so made shall be regarded as a party to the collective agreement.

(5) In this Act " procedure agreement " means so much of a collective agreement (as defined by subsections (1) to (3) of this section) as relates to any of the following matters, that is to say—

(*a*) machinery for consultation with regard to, or for the settlement by negotiation or arbitration of, terms and conditions of employment;

(*b*) machinery for consultation with regard to, or for the settlement by negotiation or arbitration of, other questions arising between an employer or group of employers and one or more workers or organisations of workers;

(*c*) negotiating rights;

(*d*) facilities for officials of trade unions or other organisations of workers;

(*e*) procedures relating to dismissal;

(*f*) procedures relating to matters of discipline other than dismissal;

(*g*) procedures relating to grievances of individual workers PART IX

(6) In this section " decision " and " the constituent parties " have the same meanings as in section 35 of this Act.

167.—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say— Interpretation.

" action " includes any refusal or failure to act, and any reference to taking action shall be construed accordingly ;

" agency shop agreement " has the meaning assigned to it by section 11(1) of this Act ;

" bargaining unit " has the meaning assigned to it by section 44 of this Act ;

" the Chief Registrar " means the Chief Registrar of Trade Unions and Employers' Associations ;

" collective bargaining " means negotiations with respect to terms and conditions of employment, or with respect to the making, variation or rescission of a procedure agreement, or with respect to any matter to which in accordance with section 166 of this Act a procedure agreement can relate ;

" the Commission " means the Commission on Industrial Relations established under this Act ;

" conciliation officer " has the meaning assigned to it by section 146 of this Act ;

" 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 ;

" dismiss " and " dismissal " have the meanings assigned to them by section 23 of this Act ;

" employee " (subject to subsection (4) of this section) means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment ;

" employer " (subject to subsection (2) of this section)—

(*a*) where the reference is to an employer in relation to an employee, means the person by whom the employee is (or, in a case where the employment has ceased, was) employed, and

(*b*) in any other case, means a person regarded in that person's capacity as one for whom one or more workers work or have worked or normally work or seek to work ;

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"employers' association" has the meaning assigned to it by section 62(3) of this Act;

"federation of workers' organisations" has the meaning assigned to it by sections 61(2) and 86(1)(*b*) of this Act;

"federation of employers' organisations" has the meaning assigned to it by section 62(2) of this Act;

"independent", in relation to a trade union or other organisation, means not under the domination or control of an employer or of a group of employers or of one or more organisations of employers;

"the Industrial Court" means the National Industrial Relations Court, and "Industrial Court rules" has the meaning assigned to it by section 99(7) of this Act;

"industrial dispute" (subject to subsection (5) of this section) means a dispute between one or more employers or organisations of employers and one or more workers or organisations of workers, where the dispute relates wholly or mainly to any 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, of one or more workers;

(*c*) allocation of work as between workers or groups of workers;

(*d*) a procedure agreement, or any matter to which in accordance with section 166 of this Act a procedure agreement can relate;

"industrial tribunal regulations" has the meaning assigned to it by section 100(3) of this Act;

"industry" means any trade or occupation, and any reference to an industry shall be construed as including a reference to a sector of an industry, and "industrial" shall be construed accordingly;

"irregular industrial action short of a strike" has the meaning assigned to it by section 33(4) of this Act;

"joint negotiating panel" and "joint negotiating panel of trade unions" have the meanings assigned to them by section 44 of this Act;

"lock-out" means action which, in contemplation or furtherance of an industrial dispute, is taken by one or more employers, whether parties to the dispute or

not, and which consists of the exclusion of workers from one or more factories, offices or other places of employment or of the suspension of work in one or more such places or of the collective, simultaneous or otherwise connected termination or suspension of employment of a group of workers;

"negotiating rights" has the meaning assigned to it by section 44 of this Act;

"official", in relation to an organisation of workers or an organisation of employers, means any person who is an officer of the organisation or of a branch of the the organisation or who (not being such an officer) is a person elected or appointed in accordance with the rules of the organisation to be a representative of its members or of some of them, including (in the case of an organisation of workers) 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;

"organisation of employers" has the meaning assigned to it by section 62 of this Act;

"organisation of workers" has the meaning assigned to it by sections 61 and 86(1)(*a*) of this Act;

"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;

"prescribed" means prescribed by regulations made under this Act;

"the provisional register" has the meaning assigned to it by section 78(1) of this Act;

"the registrar" has the meaning assigned to it by section 63(4) of this Act;

"sole bargaining agent" has the meaning assigned to it by section 44 of this Act;

"the special register" has the meaning assigned to it by section 84 of this Act;

"strike" means a concerted stoppage of work by a group of workers in contemplation or furtherance of an industrial dispute, whether they are parties to the dispute or not, whether (in the case of all or any of those workers) the stoppage is or is not in breach of their terms and conditions of employment, and whether it is carried out during, or on the termination of, their employment;

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" terms and conditions of employment " means the terms and conditions on which one or more workers are, or are to be, required to work for their employers;

" trade union " has the meaning assigned to it by section 61(3) of this Act;

" undertaking " includes a business and, in relation to any body of persons (whether corporate or unincorporate) whose activities would not, apart from this provision, be regarded as constituting an undertaking, includes the aggregate of those activities;

" 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 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 either of the preceding paragraphs.

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

(*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 Executive Council under section 33, section 38, section 40 or section 41 of the National Health Service Act 1946 or under section 34, section 39, section 40 or section 42 of the National Health Service (Scotland) Act 1947; and

1946 c. 81.

1947 c. 27.

(*b*) " employer " includes any Executive Council in accordance with whose arrangements a person provides or has provided or normally provides or seeks to provide any services as mentioned in the preceding paragraph.

(3) The Secretary of State may by order made by statutory instrument provide that in this Act " worker " shall include

any individual regarded in his capacity as a person who works or normally works or seeks to work as the holder of an office specified in the order; but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(4) Notwithstanding anything in subsection (1) of this section, for the purposes of this Act—

(*a*) service as a member of a police force, or as a special constable or as a member of any constabulary maintained by virtue of an enactment (including any local or private Act), or in any other capacity by virtue of which a person has the powers and privileges of a constable, shall not be regarded as work falling within paragraphs (*a*) to (*c*) of the definition of " worker " in that subsection, and accordingly a person shall not be regarded as a worker by reference to any such service; and

(*b*) in the definition of " employee " in that subsection the reference to a contract of employment does not include a contract to perform any such service as is mentioned in the preceding paragraph.

(5) For the purposes of the definition of " industrial dispute " in subsection (1) of this section, a dispute between a Minister of the Crown and one or more workers or organisations of workers shall, notwithstanding that the Minister is not the employer of any of the workers to whom the dispute relates, be regarded as a dispute between an employer and the worker or workers, or the organisation or organisations, in question 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 an enactment, that Minister is represented, or

(*b*) to matters in respect of which a settlement cannot take effect without the exercise of a power conferred on that Minister by or under an enactment.

(6) Subject to the next following subsection, 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.

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(7) Subsection (6) of this section 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.

(8) 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.

(9) Any reference in this Act to a person taking any action within the scope of his authority on behalf of an organisation shall be construed as a reference to his taking that action in his capacity as an official or agent of the organisation in circumstances where he is authorised, by or under the rules of the organisation or by virtue of an office in the organisation which he holds or otherwise, to take that action on its behalf.

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

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

Power to limit certain provisions of Act to major undertakings.

168.—(1) The Secretary of State may by order made by statutory instrument provide that the Industrial Court shall not entertain any application or complaint under such one or more of the provisions mentioned in the next following subsection as are specified in the order, if the application is made or the complaint presented on a date while the order is in force, unless the number of persons who on that date are employed in the relevant undertaking (as defined by the order), or, as the case may be,

are employed in at least one of the relevant undertakings (as so defined), exceeds the number specified in the order as the minimum number.

(2) The provisions referred to in subsection (1) of this section are the following provisions of this Act, that is to say, sections 11(2), 14, 37, 43, 45, 51 and 102(1)(*b*).

(3) In respect of any provision mentioned in subsection (2) of this section no order under this section, except—

(*a*) an order revoking a previous order made thereunder, or

(*b*) an order varying such an order by reducing the number specified in that order as the minimum number,

shall be made after the date on which that provision comes into operation.

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

Amendments and repeals

169. Subject to any transitional provisions having effect by virtue of the next following section—

(*a*) the enactments specified in Schedule 8 to this Act shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential upon the preceding provisions of this Act), and

(*b*) the enactments specified in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title, commencement and extent.

170.—(1) This Act may be cited as the Industrial Relations Act 1971.

(2) This Act 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, or for different purposes of, any one or more of the provisions of this Act (including, in the case of section 169 of this Act, the amendment or repeal of different enactments specified in Schedule 8 or Schedule 9 to this Act or of different provisions of any enactment so specified).

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

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(4) Any 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 force, 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, that is to say—

(*a*) sections 120, 121 and 122;

(*b*) section 165;

(*c*) this section; and

(*d*) so much of Schedule 3 to this Act as relates to the Commission, and so much of that Schedule and of Schedules 8 and 9 to this Act as relate to the House of Commons Disqualification Act 1957 or to the Merchant Shipping Act 1970,

1957 c. 20.
1970 c. 36.

shall extend to Northern Ireland; but with the exception of those provisions, and except so far as it relates to the interpretation of those provisions, this Act shall not extend to Northern Ireland.

SCHEDULES

Section 17.

SCHEDULE 1

PROVISIONS AS TO CERTAIN CLOSED SHOP AGREEMENTS

PART I

INITIAL APPLICATION TO INDUSTRIAL COURT

1. Where one or more employers and one or more trade unions, or an organisation of employers and one or more trade unions, propose to enter into an agreement which, if made in accordance with proposals approved by the Industrial Court under this Schedule, would be an approved closed shop agreement, they may make a joint application to the Industrial Court under this Part of this Schedule.

2. Any such application shall be accompanied by a draft of the proposed agreement, and shall be an application for approval by the Industrial Court of the proposals embodied in that draft.

3. The Industrial Court shall not entertain any such application in respect of a draft agreement if either—

(*a*) it is made before the end of the period of two years beginning with the date on which a previous application under this Part of this Schedule was made in respect of one or more descriptions of workers consisting of or including any of the descriptions of workers specified in the draft agreement, or

(*b*) it is made before the end of the period of two years beginning with the date on which the result of a ballot under Part II or Part III of this Schedule was reported to the Industrial Court, where the draft agreement relates (wholly or in part) to workers of any description comprised in that ballot,

and shall not entertain any such application if precluded from doing so by paragraph 15 of this Schedule.

4. Subject to paragraph 3 of this Schedule, on any application under this Part of this Schedule the Industrial Court shall refer the application to the Commission for examination by them.

5.—(1) On a reference under paragraph 4 of this Schedule, the Commission shall consider whether it appears to them, in relation to workers of the description or descriptions specified in the draft agreement, that it is necessary for those workers to be comprised in an approved closed shop agreement for the purposes—

(*a*) of enabling them to be organised, or to continue to be organised, as mentioned in section 1(1)(*c*) of this Act;

(*b*) of maintaining reasonable terms and conditions of employment and reasonable prospects of continued employment for those workers;

(*c*) of promoting or maintaining stable arrangements for collective bargaining relating to those workers; and

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(*d*) of preventing collective agreements relating to those workers, which have been or may thereafter be made by the applicants, from being frustrated.

(2) The Commission shall also consider whether it appears to them that in the circumstances the purposes specified in the preceding sub-paragraph could not reasonably be expected to be fulfilled by means of an agency shop agreement.

6.—(1) On completing their consideration of the matters specified in paragraph 5 of this Schedule, the Commission shall prepare a report setting out their conclusions.

(2) The Commission shall transmit the report to the Industrial Court and shall furnish copies of it to the applicants and to the Secretary of State, and shall arrange for the report to be published in such manner as the Commission may consider appropriate.

7.—(1) If, on considering the matters specified in sub-paragraphs (1) and (2) of paragraph 5 of this Schedule, the Commission are not satisfied both—

(*a*) that for all the purposes specified in sub-paragraph (1) of that paragraph (and not only for one or some of those purposes) it is necessary for the workers in question to be comprised in an approved closed shop agreement, and

(*b*) that in the circumstances those purposes could not reasonably be expected to be fulfilled by means of an agency shop agreement,

the report of the Commission shall indicate that fact; and in that case the Industrial Court shall not proceed further with the application to which that report relates.

(2) In any other case, the Industrial Court, on receiving the report of the Commission, shall make an order allowing such period, not being less than one month or more than three months, as the Court may consider appropriate for enabling an application to be made for a ballot under Part II of this Schedule.

8.—(1) If, in a case where the Industrial Court makes an order under paragraph 7(2) of this Schedule, no effective application for a ballot is made under Part II of this Schedule before the end of the period allowed by the order, the Industrial Court shall make an order approving the proposals embodied in the draft agreement.

(2) In this paragraph "effective application" means any application which is not precluded by paragraph 10 of this Schedule from being entertained by the Industrial Court.

PART II

BALLOT AS TO APPROVAL OF AGREEMENT

9.—(1) Where, in consequence of an application under Part I of this Schedule (in this Part of this Schedule referred to as "the initial application"), the Industrial Court has made an order under paragraph 7(2) of this Schedule, then, at any time before the end of the

period allowed by the order, any of the relevant workers may make an application to the Industrial Court under this Part of this Schedule.

(2) In this Part of this Schedule—

(*a*) "the relevant workers", in relation to an application under this Part of this Schedule, means those workers who, on the date of that application, are workers to whom the proposed agreement would apply if it were made on that date, and

(*b*) "the proposed agreement" means an agreement in the form of the draft which accompanied the initial application.

10. The Industrial Court shall not entertain an application under this Part of this Schedule unless the Court is satisfied that not less than one-fifth of the relevant workers have signified in writing their concurrence in the application.

11.—(1) Where the Industrial Court entertains an application under this Part of this Schedule, the Court shall request the Commission to arrange for a ballot to be taken on the question whether the proposed agreement should be made.

(2) The persons eligible to vote in the ballot shall be the workers who, on a date specified by the Commission in making arrangements for the ballot, are workers to whom the proposed agreement would apply.

12. For the purpose of complying with a request made by the Industrial Court under paragraph 11(1) of this Schedule, the Commission shall determine whether the ballot is to be taken by the Commission or is to be taken under the supervision of the Commission by some other body, and in either case what arrangements would best secure—

(*a*) that the ballot will be properly conducted, and

(*b*) that the voting in the ballot will be kept secret,

and shall arrange for the ballot to be taken accordingly.

13. After the ballot has been taken, the Commission shall report the result of the ballot to the Industrial Court, to the person who made the application in pursuance of which the ballot was taken and to each of the parties to the initial application.

14. If the result of the ballot, as so reported, is that either a majority of the workers eligible to vote in the ballot or not less than two-thirds of those who voted in it have voted in favour of the proposed agreement, the Industrial Court shall make an order approving the proposals embodied in the draft agreement which accompanied the initial application.

15. If the result of the ballot, as so reported, is that neither a majority of the workers eligible to vote in the ballot nor two-thirds of those who voted in it have voted in favour of the proposed agreement, then—

(*a*) the Industrial Court shall not approve the proposals, and

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(*b*) during the period of two years beginning with the date on which that result was so reported, the Industrial Court shall not entertain any application under Part I of this Schedule if it relates (wholly or in part) to a description of workers to whom the initial application related.

PART III

BALLOT AS TO CONTINUANCE OF AGREEMENT

16. Subject to the next following paragraph, at any time when an approved closed shop agreement is in force, any worker to whom the agreement applies may make an application to the Industrial Court for a ballot as to the continuance of the agreement.

17. The Industrial Court shall not entertain any such application—

(*a*) unless it is satisfied that not less than one-fifth of the workers to whom the agreement for the time being applies have signified in writing their concurrence in the application, or

(*b*) if the application is made before the end of the period of two years beginning with the date on which the result of a ballot under Part II of this Schedule relating to that agreement was reported by the Commission to the Court, or

(*c*) if the application is made before the end of the period of two years beginning with the date on which the result of a previous ballot under this Part of this Schedule relating to that agreement was reported by the Commission to the Court.

18.—(1) Where the Industrial Court entertains an application under this Part of this Schedule, the Court shall request the Commission to arrange for a ballot to be taken on the question whether the agreement to which the application relates should continue in force.

(2) Paragraph 12 of this Schedule shall have effect in relation to a request under this paragraph as it has effect in relation to a request under paragraph 11(1) of this Schedule.

(3) The persons eligible to vote in the ballot shall be the workers to whom the approved closed shop agreement for the time being applies.

19. After the ballot has been taken, the Commission shall report the result of the ballot to the Industrial Court, to the person who made the application in pursuance of which the ballot was taken and to each of the parties to the agreement to which the ballot relates.

20. If the result of the ballot, as so reported, is that neither a majority of the workers eligible to vote in the ballot nor two-thirds of those who voted in it have voted in favour of the continuance of the approved closed shop agreement—

(*a*) the Industrial Court shall revoke the order under Part I or Part II of this Schedule approving the proposals embodied

in the draft agreement in accordance with which that agreement was made, and

(*b*) the agreement shall thereupon cease to be an approved closed shop agreement.

PART IV

SPECIAL EXEMPTION FROM AGREEMENT

21.—(1) Every approved closed shop agreement shall include provisions as to the principles in accordance with which, in the case of specially exempted workers, appropriate contributions to a charity are to be calculated.

(2) Subsections (1) to (4) of section 8 of this Act shall (with the necessary modifications) have effect in relation to the formulation of those principles as they have effect in relation to the provisions of an agency shop agreement relating to appropriate contributions to a trade union in lieu of membership of the trade union.

22.—(1) Any worker who—

(*a*) in accordance with an approved closed shop agreement would, unless specially exempted, be required to become a member of a trade union, but

(*b*) objects on grounds of conscience to being a member of a trade union,

may propose to the trade union that, instead of becoming a member of it, he should agree to pay appropriate contributions to a charity to be determined by agreement between him and the trade union.

(2) If the trade union agrees to the proposal, and the amount of the contributions, and the charity to which they are to be paid, are agreed between the worker and the trade union, the worker shall by virtue of that agreement be specially exempted for the purposes of section 17 of this Act, and (subject to the next following paragraph) "specially exempted" in that section shall be construed accordingly.

23.—(1) If, in consequence of a proposal made by a worker to a trade union under paragraph 22 of this Schedule, a dispute arises between him and the trade union on any question—

(*a*) whether his objections to being a member of a trade union are genuinely objections on grounds of conscience, or

(*b*) to which charity the contributions should be payable, or

(*c*) what contributions to a charity would be appropriate contributions in accordance with the approved closed shop agreement, or

(*d*) whether the provisions of that agreement relating to contributions to a charity conform to the requirements of paragraph 21(2) of this Schedule,

the question in dispute may, in accordance with industrial tribunal regulations, be referred to and determined by an industrial tribunal.

SCH. 1

(2) Any matter determined by the decision of an industrial tribunal on a reference under this paragraph shall have the like effect for the purposes of section 17 of this Act and of this Part of this Schedule as if it had been agreed between the worker and the trade union.

PART V

SUPPLEMENTARY

24. Where an approved closed shop agreement is made between one or more employers and one or more trade unions, any reference in section 17 of this Act to an employer to whom the agreement applies shall be construed as a reference to that employer or any of those employers, as the case may be.

25. Where an approved closed shop agreement is made between an organisation of employers and one or more trade unions—

(*a*) if the agreement is expressed to be made by the organisation on behalf of one or more employers specified in the agreement, any reference in section 17 of this Act to an employer to whom the agreement applies shall be construed as a reference to that employer or any of those employers, as the case may be, but

(*b*) in any other case, any reference in that section to an employer to whom the agreement applies shall be construed as a reference to any employer who is for the time being a member of that organisation, whether he was a member of it on the date on which the agreement was made or not.

26. In this Schedule "charity" has the meaning assigned to it by section 9(3) of this Act.

Section 21.

SCHEDULE 2

PART I

1963 c. 49.

CONTRACTS OF EMPLOYMENT ACT 1963

Change of name or identity of employer

1.—(1) The provisions of the next following sub-paragraph shall have effect where, after an employer has given to an employee a written statement in accordance with section 4(1) of the Act of 1963,—

(*a*) the name of the employer (whether an individual or a body corporate or partnership) is changed, but without any change in the identity of the employer, or

(*b*) the identity of the employer is changed, in such circumstances that, in accordance with paragraph 10 or paragraph 10A of Schedule 1 to that Act, the continuity of the employee's period of employment is not broken,

and (in either case) the change does not involve any change in the terms (other than the names of the parties) included or referred to in the statement.

(2) Where the preceding sub-paragraph applies, the person who, immediately after the change, is the employer shall not be required to give to the employee a statement in accordance with subsection (1) of section 4 of that Act, but the change shall be treated as a change falling within subsection (4) of that section.

Amendments consequential on ss. 19 *and* 20 *of this Act*

2. In subsections (3) and (4) of section 1 and in subsections (1) and (2) of section 2 of the Act of 1963, for the words " twenty-six weeks ", in each place where they occur, there shall be substituted the words " thirteen weeks ".

3. In section 4 of the Act of 1963, the following subsections shall be substituted for subsection (8):—

" (7A) In subsections (4) to (6) of this section any reference to that which is, or is to be, included, given or referred to in a statement under subsection (1) of this section shall be construed as including a reference to the note mentioned in section 20(2) of the Industrial Relations Act 1971, and any reference to that which is, or is to be, included, given or referred to in a statement under subsection (4) of this section shall be construed in a corresponding way.

(8) The foregoing provisions of this section shall not apply to an employee if and so long as the conditions specified in the next following subsection are fulfilled in relation to him.

(8A) Those conditions are that—

(*a*) the employee's contract of employment is a contract which has been reduced to writing in one or more documents and which contains express terms affording the particulars to be given under each of the paragraphs in subsection (1) of this section, and under each head of paragraph (*d*) of that subsection ;

(*b*) there has been given to the employee a copy of the contract (with any variations made from time to time), or he has reasonable opportunities of reading such a copy in the course of his employment, or such a copy is made reasonably accessible to him in some other way ; and

(*c*) such a note as is mentioned in section 20(2) of the Industrial Relations Act 1971 has been given to the employee or he has reasonable opportunities of reading such a note in the course of his employment or such a note is made reasonably accessible to him in some other way.

(8B) If at any time after the beginning of an employee's period of employment he ceases to come within the exception in subsection (8) of this section, the employer shall give the employee a written statement under subsection (1) of this section not more than one month after that time."

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4. In section 4A of the Act of 1963, in subsection (7), for the words "Part III of the Redundancy Payments Act 1965" there shall be substituted the words "Schedule 6 to the Industrial Relations Act 1971", and after that subsection there shall be inserted the following subsections:—

"(7A) Subsection (7A) of section 4 of this Act shall have effect in relation to the foregoing provisions of this section as it has effect in relation to subsections (4) to (6) of that section.

(7B) A tribunal shall not entertain a reference under this section in a case where the employment to which the reference relates has ceased unless an application requiring the reference to be made was, in accordance with the regulations referred to in subsection (7) of this section, made before the end of the period of three months beginning with the date on which the employment ceased."

5. In section 8(1) of the Act of 1963, in the definition of "employee", after the words "works under" there shall be inserted the words "(or, where the employment has ceased, worked under)".

6. In Schedule 1 to the Act of 1963, in paragraph 1(1), for the words "two and five years mentioned in section 1 of this Act shall be taken as 104 and 260 weeks respectively" there shall be substituted the words "two, five, ten and fifteen years mentioned in section 1 of this Act shall be taken as 104, 260, 520 and 780 weeks respectively".

Sickness or injury during period of notice

7. In Schedule 2 to the Act of 1963, after paragraph 3 there shall be inserted the following paragraph:—

"*Sickness or industrial injury benefit*

3A.—(1) The following provisions of this paragraph shall have effect where the arrangements in force relating to the employment are such that—

(*a*) payments by way of sick pay are made by the employer to employees to whom the arrangements apply, in cases where any such employees are incapable of work because of sickness or injury, and

(*b*) in calculating any payment so made to any such employee an amount representing, or treated as representing, sickness benefit or industrial injury benefit is taken into account, whether by way of deduction or by way of calculating the payment as a supplement to that amount.

(2) If during any part of the period of notice the employee is incapable of work because of sickness or injury, and—

(*a*) one or more payments, either by way of sick pay or as amounts required to be paid by virtue of this Schedule, are made to him by the employer in respect of that part of the period of notice, and

(*b*) in calculating any such payment such an amount as is referred to in sub-paragraph (1)(*b*) of this paragraph is taken into account as therein mentioned,

then for the purposes of this Schedule the amount so taken into account shall be treated as having been paid by the employer to the employee by way of sick pay in respect of that part of that period, and shall go towards meeting the liability of the employer under paragraph 2 or paragraph 3 of this Schedule accordingly."

Transitional provisions

8. The amendments made by sections 19 and 20 of this Act, and by paragraphs 2 to 5 of this Schedule, shall not affect the validity of any statement given to an employee before the commencement of this Act; but (except as provided by the next following paragraph) the coming into operation of those amendments shall be deemed to be such a change as is mentioned in section 4(4) of the Act of 1963.

9. On the coming into operation of paragraph 3 of this Schedule, an employee shall not be treated as ceasing to come within the exception in subsection (8) of section 4 of the Act of 1963 by reason only that the condition specified in paragraph (*c*) of subsection (8A) of that section is not fulfilled; but he shall be treated as ceasing to come within that exception unless that condition is fulfilled not more than one month after the coming into operation of paragraph 3 of this Schedule.

Interpretation

10. In this Schedule "the Act of 1963" means the Contracts of Employment Act 1963. 1963 c. 49

PART II

SECTION 4(1) TO (9) OF CONTRACTS OF EMPLOYMENT ACT 1963 AS AMENDED

Written particulars of terms of employment.

4.—(1) Not later than thirteen weeks after the beginning of an employee's period of employment with an employer, the employer shall give to the employee a written statement identifying the parties, specifying the date when the employment began, and giving the following particulars of the terms of employment as at a specified date not more than one week before the statement is given, that is—

(*a*) the scale or rate of remuneration, or the method of calculating remuneration,

(*b*) the intervals at which remuneration is paid (that is, whether weekly or monthly or by some other period),

(*c*) any terms and conditions relating to hours of work (including any terms and conditions relating to normal working hours),

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(*d*) any terms and conditions relating to—

(i) entitlement to holidays, including public holidays, and holiday pay (the particulars given being sufficient to enable the employee's entitlement, including any entitlement to accrued holiday pay on the termination of employment, to be precisely calculated),

(ii) incapacity for work due to sickness or injury, including any provisions for sick pay,

(iii) pensions and pension schemes, and

(*e*) the length of notice which the employee is obliged to give and entitled to receive to determine his contract of employment:

Provided that paragraph (*d*)(iii) of this subsection shall not apply to the employees of any body or authority if the employees' pension rights depend on the terms of a pension scheme established under any provision contained in or having effect under an Act of Parliament and the body or authority are required by any such provision to give to new employees information concerning their pension rights, or concerning the determination of questions affecting their pension rights.

(2) If there are no particulars to be entered under any of the heads of paragraph (*d*), or under any of the other provisions of the last foregoing subsection, that fact shall be stated.

(3) If the contract is for a fixed term, the date when the contract expires shall be stated.

(4) If after the date to which the statement relates there is a change in the terms to be included, or referred to, in the statement, the employer shall, not more than one month after the change, inform the employee of the nature of the change by a written statement and, if he does not leave a copy of the statement with the employee, shall preserve the statement and ensure that the employee has reasonable opportunities of reading it in the course of his employment, or that it is made reasonably accessible to him in some other way.

(5) A statement under subsection (1) or subsection (4) of this section may, for all or any of the particulars to be given by the statement, refer the employee to some document which the employee has reasonable opportunities of reading in the course of his employment, or which is made reasonably accessible to him in some other way.

(6) If the employer in referring in the statement to any such document indicates to the employee that future changes in the terms the particulars of which are given in the document will be entered up in the document (or recorded by some other means for the information of persons referring to the document) the employer need not under subsection (4) of this section inform the employee of any such change which is duly entered up or recorded not more than one month after the change is made.

(7) If, not more than six months after the termination of an employee's period of employment, a further period of employment

is begun with the same employer, and the terms of employment are the same, no statement need be given under subsection (1) of this section in respect of the second period of employment, but without prejudice to the operation of subsection (4) of this section if there is a change in the terms of employment.

(7A) In subsections (4) to (6) of this section any reference to that which is, or is to be, included, given or referred to in a statement under subsection (1) of this section shall be construed as including a reference to the note mentioned in section 20(2) of the Industrial Relations Act 1971, and any reference to that which is, or is to be, included, given or referred to in a statement under subsection (4) of this section shall be construed in a corresponding way.

(8) The foregoing provisions of this section shall not apply to an employee if and so long as the conditions specified in the next following subsection are fulfilled in relation to him.

(8A) Those conditions are that—

(*a*) the employee's contract of employment is a contract which has been reduced to writing in one or more documents and which contains express terms affording the particulars to be given under each of the paragraphs in subsection (1) of this section, and under each head of paragraph (*d*) of that subsection;

(*b*) there has been given to the employee a copy of the contract (with any variations made from time to time), or he has reasonable opportunities of reading such a copy in the course of his employment, or such a copy is made reasonably accessible to him in some other way; and

(*c*) such a note as is mentioned in section 20(2) of the Industrial Relations Act 1971 has been given to the employee or he has reasonable opportunities of reading such a note in the course of his employment or such a note is made reasonably accessible to him in some other way.

(8B) If at any time after the beginning of an employee's period of employment he ceases to come within the exception in subsection (8) of this section, the employer shall give the employee a written statement under subsection (1) of this section not more than one month after that time.

(9) No account shall be taken under this section of employment during any period when the hours of employment are normally less than twenty-one hours weekly, and this section shall apply to an employee who at any time comes or ceases to come within the exception in this subsection as if a period of employment terminated or began at that time.

Section 63, 99 and 120.

SCHEDULE 3

CHIEF REGISTRAR AND ASSISTANT REGISTRARS, NATIONAL INDUSTRIAL RELATIONS COURT AND COMMISSION ON INDUSTRIAL RELATIONS

PART I

CHIEF REGISTRAR AND ASSISTANT REGISTRARS

1. The Chief Registrar may appoint such officers and servants as he thinks fit, subject to the approval of the Minister for the Civil Service as to numbers and as to terms and conditions of service.

1868 c. 37

2. The Documentary Evidence Act 1868 shall have effect as if the Chief Registrar were included in the first column of the Schedule to that Act, as if the Chief Registrar and any assistant registrar or other officer authorised to act on behalf of the Chief Registrar were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the registrar.

PART II

NATIONAL INDUSTRIAL RELATIONS COURT

Tenure of office of appointed members of Court

3. Subject to paragraphs 4 to 6 of this Schedule, a member of the Industrial Court appointed by Her Majesty under section 99(2)(*c*) of this Act (in this Part of this Schedule referred to as an " appointed member ") shall hold and vacate office as such a member in accordance with the terms of his appointment.

4. A person shall not be so appointed for a term less than three years ; and previous membership shall not affect eligibility for re-appointment.

5. An appointed member may at any time resign his membership by notice in writing addressed to the Lord Chancellor and the Secretary of State.

6. The Lord Chancellor and the Secretary of State may remove an appointed member on the ground of incapacity or misbehaviour.

Temporary membership of Court

7. At any time when the office of President of the Industrial Court is vacant, or the person holding that office is temporarily absent or otherwise unable to act as President of the Court, the Lord Chancellor may nominate another judge nominated under section 99(2) of this Act (in this Part of this Schedule referred to as a " judge ") to act temporarily in his place.

8. At any time when a judge of the Industrial Court nominated by the Lord Chancellor is temporarily absent or otherwise unable to act as a judge of that Court, the Lord Chancellor may nominate another person who is qualified to be nominated under section 99(2)(*a*) of this Act to act temporarily in his place.

9. At any time when a judge of the Industrial Court nominated by the Lord President of the Court of Session is temporarily absent or otherwise unable to act as a judge of the Industrial Court, the Lord President may nominate another judge of the Court of Session to act temporarily in his place.

10. At any time when an appointed member is temporarily absent or otherwise unable to act as a member of the Industrial Court, the Lord Chancellor and the Secretary of State may jointly appoint a person appearing to them to have the qualifications mentioned in section 99(3) of this Act to act temporarily in his place.

11. A person appointed to act temporarily in place of the President or any other member of the Industrial Court shall, when so acting, have all the functions of the person in whose place he acts.

12. No judge shall be nominated under paragraph 8 or paragraph 9 of this Schedule except with his consent.

Organisation and sittings of Court

13. The Industrial Court shall be a superior court of record and shall have an official seal which shall be judicially noticed.

14. The Industrial Court shall have a central office in London.

15. The Industrial Court may sit at any time and in any place in Great Britain.

16. The Industrial Court may sit, in accordance with directions given by the President of the Court, either as a single court or in two or more divisions concurrently.

17. With the consent of the parties to any proceedings before the Industrial Court, the proceedings may be heard by a judge and by one appointed member, but, in default of such consent, any proceedings before the Industrial Court shall be heard by a judge and not less than two and not more than four appointed members.

Rules

18.—(1) Provision with respect to the conduct of proceedings before the Industrial Court shall be made by rules (in this Part of this Schedule referred to as " the rules ").

(2) The rules shall be made by the Lord Chancellor, after consultation with the Lord President of the Court of Session.

(3) The rules shall include provision for securing that the Industrial Court shall so exercise its jurisdiction in any proceedings as to enable the parties to the proceedings to avail themselves of the services of conciliation officers or of other opportunities for conciliation.

(4) Subject to the rules, and to any express provision contained in this Act, the Industrial Court shall have power to regulate its own procedure.

(5) In exercising that power the Industrial Court shall seek to avoid formality in its proceedings so far as it appears to the Court

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to be appropriate to do so ; and, except as provided by sections 82(7) and 146(6) of this Act, and except in proceedings on an appeal under section 114 or section 115 of this Act, the Industrial Court shall not be bound by any enactment or rule of law relating to the evidence which is admissible in proceedings in other courts.

19. The rules may include provision—

(*a*) for securing, by means of preliminary statements of facts and contentions, and by the production of documents, the administration of interrogatories and other methods of discovery, that all material facts and considerations are brought before the Industrial Court by all parties to proceedings before the Court ;

(*b*) for requiring persons to attend to give evidence and produce documents, and for authorising the administration of oaths to witnesses ;

(*c*) for enabling the Industrial Court to review its decisions and revoke or vary its orders in such circumstances as may be determined in accordance with the rules.

20.—(1) The rules may enable the Industrial Court to sit in private for the purpose of hearing evidence which, in the opinion of the Court,—

(*a*) relates to matters of such a nature that it would be against the interests of national security to allow the evidence to be given in public, or

(*b*) is likely to consist (wholly or in part) of information to which the next following sub-paragraph applies.

(2) This sub-paragraph applies to any information which, in relation to the person giving the evidence, is information of any of the descriptions specified in paragraphs (*b*) to (*f*) of subsection (1) of section 158 of this Act (any reference in those paragraphs to the employer being construed for this purpose as a reference to the person giving the evidence) or is information of the description specified in paragraph (*e*) of that subsection as modified by section 162(3) of this Act.

21. Any person may appear before the Industrial Court 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.

22.—(1) Subject to the following provisions of this paragraph, the rules may enable the Industrial Court, on the application of any party to any proceedings before the Court, to make, as an interim order, any order which under this Act the Court could make as a final order in the proceedings.

(2) Such an interim order may be made at any stage of the proceedings, and may be made so as to have effect either until the final determination of the proceedings, or for a shorter period, as the Court may consider appropriate.

(3) The rules shall not enable any interim order to be made by the Industrial Court against any person unless all reasonable steps have been taken with a view to securing that notice of the application for the interim order, and an opportunity of making representations relating to that application, have been given to that person.

23. In so far as the rules make provision for the purposes of section 160 of this Act, they shall include provision—

(*a*) as to the circumstances in which, and the parties by whom, an application can be made to the Industrial Court for an order under that section ;

(*b*) as to any circumstances in which the Industrial Court is to be empowered to make such an order without any such application ; and

(*c*) as to the persons who are to be, or may be made, parties to any proceedings before the Industrial Court in which (whether in pursuance of an application or otherwise) the Court considers the making of such an order.

24.—(1) The rules may empower the Industrial Court to order a party to any proceedings before the Court to pay to any other party to the proceedings the whole or part of the costs or expenses incurred by that other party in connection with the proceedings, where in the opinion of the Court—

(*a*) the proceedings were unnecessary, improper or vexatious, or

(*b*) there has been unreasonable delay or other unreasonable conduct in bringing or conducting the proceedings.

(2) Except as provided by the preceding sub-paragraph, the rules shall not enable the Industrial Court to order the payment of costs or expenses by any party to proceedings before the Court.

Time-limit for complaints under ss. 101 *and* 102

25.—(1) Subject to the following provisions of this paragraph, the Industrial Court shall not entertain any complaint under section 101 or section 102 of this Act unless it is presented before the end of the period of six months beginning with the earliest date on which the action to which the complaint relates came to the knowledge of the complainant, or would have come to his knowledge if he had exercised due diligence.

(2) The rules may provide that, in relation to complaints fulfilling such conditions as the rules may specify, the preceding sub-paragraph shall have effect as if, for the reference to a period of six months, there were substituted a reference to such shorter period as is specified in the rules.

(3) Notwithstanding anything in the preceding provisions of this paragraph, the Industrial Court may extend the time for presenting a complaint under section 101 or section 102 of this Act to such extent as the Court may consider appropriate to make allowance for any period during which the parties have availed themselves of the services of conciliation officers, or of other opportunities for conciliation, with respect to the matters to which the complaint relates.

SCH. 3

Enforcement

26.—(1) Any award of compensation made by the Industrial Court in proceedings in England or Wales shall have effect for all purposes of enforcement, and of devolution on death or otherwise, as if it were a judgment for the like amount in the High Court or the appropriate county court (as the case may be) as may be determined in accordance with Industrial Court rules.

(2) Any order of the Industrial Court making an award of compensation in any proceedings in Scotland may, as respects that award, be enforced in like manner as a recorded decree arbitral.

(3) In the preceding sub-paragraphs any reference to an award or order of the Industrial Court—

(*a*) does not include any award or order which, on being reviewed, has been revoked by the Court, and

(*b*) in relation to an award or order which, on being reviewed, has been varied by the Court, shall be construed as a reference to the award or order as so varied.

27.—(1) In relation to the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, and all other matters incidental to its jurisdiction under this Act, the Industrial Court shall have the like powers, rights, privileges and authority—

(*a*) in England and Wales, as the High Court ;

(*b*) in Scotland, as the Court of Session.

(2) No person shall be punished for contempt of the Industrial Court except by, or with the consent of, a judge who is a member of the Court.

1948 c. 58.
1967 c. 80

28.—(1) In relation to any fine imposed by the Industrial Court for contempt of that Court, section 14 of the Criminal Justice Act 1948 and section 47 of the Criminal Justice Act 1967 (which relate to fines imposed and recognizances forfeited at certain courts) shall have effect as if in those provisions any reference to a court of assize or to the Crown Court included a reference to the Industrial Court.

(2) A magistrates' court shall not remit the whole or any part of a fine imposed by the Industrial Court except with the consent of a judge who is a member of the Industrial Court.

(3) This paragraph does not extend to Scotland.

Appeals

29.—(1) Subject to the next following sub-paragraph, any decision of the Industrial Court on a question of fact shall be final ; but an appeal shall lie on any question of law from any decision or order of the Industrial Court—

(*a*) in the case of proceedings in England and Wales, to the Court of Appeal ;

(*b*) in the case of proceedings in Scotland, to the Court of Session.

(2) The preceding sub-paragraph shall not affect the operation of section 13 of the Administration of Justice Act 1960 (appeal in case of contempt of court) in relation to the Industrial Court or any judge of that Court. SCH. 3 1960 c. 65.

Staff

30. The Lord Chancellor may appoint such officers and servants of the Industrial Court as he may determine, subject to the approval of the Minister for the Civil Service as to numbers and as to terms and conditions of service.

PART III

COMMISSION ON INDUSTRIAL RELATIONS

Incorporation and status

31.—(1) The Commission on Industrial Relations shall by that name be a body corporate with perpetual succession and a common seal.

(2) The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown or as exempt from any tax, duty, levy or other charge whatsoever ; and its property shall not be regarded as the property of, or property held on behalf of, the Crown.

Tenure of office of members

32.—(1) Subject to the following provisions of this paragraph, a member of the Commission shall hold and vacate office as such in accordance with the terms of his appointment.

(2) A person shall not be appointed to the Commission for a term exceeding five years ; but previous membership shall not affect eligibility for re-appointment.

(3) The Secretary of State may, with the consent of the member concerned, vary the terms of appointment of any member of the Commission so as to provide for him to serve as a full-time member instead of as a part-time member or, as the case may be, as a part-time member instead of as a full-time member.

(4) A member of the Commission may at any time resign his membership by notice in writing addressed to the Secretary of State.

(5) The Secretary of State may remove a member of the Commission on the ground of incapacity or misbehaviour.

Tenure of office of chairman and deputy chairman

33.—(1) Subject to the following provisions of this paragraph, the chairman and any deputy chairman of the Commission shall hold and vacate office as such in accordance with the terms of his appointment.

(2) The chairman or a deputy chairman of the Commission may at any time resign his office as such by notice in writing addressed to the Secretary of State.

SCH. 3

(3) If the chairman or a deputy chairman of the Commission ceases to be a full-time member of the Commission, he shall also cease to be chairman or, as the case may be, a deputy chairman.

Staff

34.—(1) The Commission shall have a secretary, to be appointed by the Secretary of State after consultation with the Commission.

(2) The Commission may, after consultation with the Secretary of State, appoint such other officers and servants as the Commission think fit, subject to the approval of the Minister for the Civil Service as to numbers and as to terms and conditions of service.

Proceedings of the Commission

35. The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any member of the Commission.

36. The Commission may determine their own procedure, including the quorum necessary for their meetings, but in doing so shall act in accordance with any general directions which may from time to time be given to them by the Secretary of State.

37.—(1) At any time when the chairman of the Commission is absent or otherwise incapable of acting, or there is a vacancy in the office of chairman, and the Commission has a deputy chairman or deputy chairmen,—

(*a*) the deputy chairman, if there is only one, or

(*b*) if there are two or more deputy chairmen, such one of them as the Secretary of State may direct or, in default of any such direction, such one of them as they may agree,

may perform any of the functions of the chairman of the Commission.

(2) At any time when every person who is chairman or deputy chairman of the Commission is absent or otherwise incapable of acting, or there is no such person, such member of the Commission as the Secretary of State may direct or, in default of any such direction, such member of the Commission as the Commission may agree, may perform any of the functions of the chairman of the Commission.

Information and facilities for purposes of ballots

38.—(1) For purposes of any ballot to be taken under this Act, the chairman of the Commission, or any other member of the Commission authorised by the chairman (whether generally or in connection with the particular ballot) to exercise the powers conferred by this sub-paragraph, may by notice in writing require any employer to furnish to the Commission, within such time as may be specified in the notice,—

(*a*) the names and addresses, so far as they are known to the employer, of persons who are employed by that employer and are employees of one or more descriptions specified in the notice, and

(*b*) such particulars of the position held by each such employee as may be specified in the notice. SCH. 3

(2) Any person who refuses or wilfully neglects to comply with a notice under this paragraph, or who, in furnishing any information required by such a notice, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(3) In making arrangements for any such ballot, the Commission may invite any person who is the employer of any workers eligible to vote in the ballot to provide premises and other facilities for enabling the ballot to be taken in accordance with the arrangements.

General power to take remedial action

39.—(1) Where, on examining any question under this Act, the Commission are of the opinion that there is a defect in the existing arrangements out of which that question arose, the Commission may at any time, whether before or after making a report on that question, take such steps as they think fit for the purpose of securing the remedying of that defect.

(2) The preceding sub-paragraph shall not be construed as authorising the Commission to contravene or disregard any enactment or rule of law.

Wages Councils Act 1959

40. The Commission shall perform all the functions of commissions of inquiry under the Wages Councils Act 1959; and accordingly for any reference in that Act to a commission of inquiry there shall be substituted a reference to the Commission. 1959 c. 69.

PART IV

INQUIRIES AND DISCLOSURE OF INFORMATION

Inquiries

41.—(1) The registrar may hold such inquiries as he considers necessary or desirable for the purpose of carrying out any investigation under section 82 or section 83 of this Act.

(2) The Commission may hold such inquiries as they consider necessary or desirable for the performance of their functions.

(3) At any inquiry held under this paragraph by the registrar he may direct that any person appearing as a witness be examined on oath, and administer an oath accordingly or, instead of so directing, may require the person examined to make and subscribe a declaration of the truth of the matter with respect to which he is examined.

(4) If any person who is to give evidence at any such inquiry so requests, at the hearing or by a notice in writing served on the registrar before the date of the hearing, the public shall be excluded from the hearing while that person gives his evidence.

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(5) At any inquiry held under this paragraph by the Commission, the chairman of the Commission may direct that any person appearing as a witness be examined on oath, and administer an oath accordingly, or, instead of so directing, may require the person examined to make and subscribe a declaration of the truth of the matter with respect to which he is examined.

(6) If any person who is to give evidence at any such inquiry so requests, at the hearing or by a notice in writing served on the secretary of the Commission before the date of the hearing, the public shall be excluded from the hearing while that person gives his evidence.

42.—(1) For the purposes of any inquiry held under this Part of this Schedule by the registrar or by the Commission, the registrar or, as the case may be, the chairman of the Commission, or any other member of the Commission authorised by the chairman (whether generally or in connection with the particular inquiry) to exercise the powers conferred by this sub-paragraph, may by notice in writing—

(*a*) require any person to attend, at such time and place as is specified in the notice, to give evidence on, or to produce all documents in his possession or control which relate to, any matter which is in question at the inquiry and is specified in the notice, or

(*b*) require any person carrying on any trade or business, any organisation of workers or organisation of employers, or any officer of such an organisation, to furnish such estimates, returns or other information as may be specified or described in the notice, and specify the time, the manner and the form in which any such estimates, returns or information are to be furnished.

(2) No person shall be compelled, for the purposes of an inquiry under this Part of this Schedule, to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.

(3) No person shall be required, in obedience to a notice under this paragraph, to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him.

(4) A person who—

(*a*) refuses or wilfully neglects to attend in obedience to a notice issued under this paragraph, or to give evidence as required by such a notice, or

(*b*) wilfully alters, suppresses, conceals, destroys or refuses to produce any book or other document which he has been required by such a notice to produce, or

(*c*) refuses or wilfully neglects to furnish any estimate, return or other information required of him by such a notice or, in furnishing any such estimate, return or other information, makes any statement which he knows to be false in a

material particular, or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(5) Proceedings for an offence under sub-paragraph (4) of this paragraph may (without prejudice to any jurisdiction exercisable apart from this sub-paragraph) be taken—

(*a*) against an organisation of workers or organisation of employers, at the place at which it has its registered or principal office ;

(*b*) against a body corporate (not being an organisation of workers or organisation of employers), at any place at which it has a place of business ; and

(*c*) against any other person, at any place at which he is for the time being.

(6) In the application of this paragraph to Scotland, for the reference to the High Court there shall be substituted a reference to the Court of Session.

Disclosure of information

43.—(1) Subject to the next following sub-paragraph, no information given or supplied by any person in connection with the examination of any question by the Commission under this Act shall be disclosed except—

(*a*) with that person's consent, or

(*b*) to members, officers or servants of the Commission or, so far as may be necessary for the proper performance of the functions of the Commission, to other persons, or

(*c*) for the purpose of enabling the Secretary of State or any other Minister to perform functions under this Act, to the Secretary of State or that Minister or to any person performing functions on behalf of the Secretary of State or that Minister, or

(*d*) for the purpose of enabling the Secretary of State to perform functions under any enactment other than this Act, to the Secretary of State or to any person performing functions on his behalf, or

(*e*) for the purposes of any proceedings before the Industrial Court under this Act, or for the purposes of any criminal proceedings in respect of an offence under this Act.

(2) The preceding sub-paragraph does not apply to any information contained in any report of the Commission and shall not be taken to limit the matters that may be included in such a report.

44. No information given or supplied by any person in pursuance of any inquiry held by the registrar under paragraph 41(1) of this Schedule shall be disclosed except—

(*a*) with that person's consent, or

(*b*) to officers or servants of the Chief Registrar or, so far as may be necessary for the proper performance of the functions of the registrar, to other persons, or

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(*c*) for the purposes of any proceedings before the Industrial Court or an industrial tribunal on a complaint presented by the registrar under Part VI of this Act, or for the purposes of any criminal proceedings in respect of an offence under this Act.

45. Any person who discloses any information in contravention of paragraph 43 or paragraph 44 of this Schedule shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £400.

46. In making any report under this Act the Commission shall have regard to the need for excluding, so far as that is practicable, matter which relates to the private affairs of any individual, where the publication of that matter would or might, in the opinion of the Commission, prejudicially affect the interests of that individual.

PART V

SUPPLEMENTARY PROVISIONS

Remuneration and allowances

47. There shall be paid to the Chief Registrar such remuneration, and such travelling and other allowances, as the Secretary of State may determine with the approval of the Minister for the Civil Service; and there shall be paid to assistant registrars, and to other officers and servants of the Chief Registrar, such remuneration, and such travelling and other allowances, as the Chief Registrar may determine with the like approval.

48. There shall be paid to members of the Industrial Court appointed under section 99(2)(*c*) of this Act such remuneration, and such travelling and other allowances, as the Lord Chancellor may determine with the approval of the Minister for the Civil Service.

49. There shall be paid to the members of the Commission such remuneration, and such travelling and other allowances, as the Secretary of State may determine with the approval of the Minister for the Civil Service.

50. There shall be paid to officers and servants of the Industrial Court, and to officers and servants of the Commission, such remuneration and such travelling and other allowances, as—

(*a*) in the case of the Industrial Court, the Lord Chancellor may determine with the approval of the Minister for the Civil Service, or

(*b*) in the case of the Commission, the Commission may determine after consultation with the Secretary of State and with the like approval.

Sums payable on retirement

51. In the case of—

(*a*) any member of the Industrial Court appointed under section 99(2)(*c*) of this Act to whom the Lord Chancellor may,

with the approval of the Minister for the Civil Service, determine that this paragraph applies, or

(*b*) any member of the Commission to whom the Secretary of State may with the like approval determine that this paragraph applies,

the Lord Chancellor or the Secretary of State, as the case may be, shall pay such pension, allowances or gratuity to or in respect of that member on his retirement or death, or make such payments towards the provision of such a pension, allowance or gratuity, as the Lord Chancellor or the Secretary of State may, with the like approval, determine.

52. If a person ceases to be a member of the Commission, and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may, with the approval of the Minister for the Civil Service, pay to that person a sum of such amount as the Secretary of State may, with the like approval, determine.

House of Commons Disqualification Act 1957

53.—(1) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified under that Act) there shall (at the appropriate places in alphabetical order) be inserted the following entries:— 1957 c. 20.

" The Industrial Arbitration Board " ;

" The Commission on Industrial Relations " ;

and the like amendments shall be made in the Part substituted for the said Part II by Schedule 3 to that Act in its application to the Senate and House of Commons of Northern Ireland.

(2) In the said Part II there shall also (at the appropriate place in alphabetical order) be inserted the following entry:—

" The National Industrial Relations Court ".

(3) In Part III of that Schedule (other disqualifying offices) there shall (at the appropriate place in alphabetical order) be inserted the following entry:—

" Chief Registrar or Assistant Registrar of Trade Unions and Employers' Associations ".

SCHEDULE 4

Requirements as to Rules of Trade Unions and Employers' Associations

Introductory

1. Subject to paragraph 23 of this Schedule, the rules of a trade union or an employers' association must comply with the requirements set out in this Schedule.

SCH. 4 *Requirements relating to constitution and management of organisation*

2. The rules must specify the name of the organisation, the address of its principal office, and the objects for which it was established.

3. If the organisation has branches, the rules must so indicate, and must also indicate the extent to which, and the manner in which, it has power to control the activities of its branches.

4. The rules must make provision—

(*a*) for the election of a governing body and for its re-election at reasonable intervals, and

(*b*) for the manner in which members of the governing body can be removed from office.

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

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

7. The rules must specify the powers and duties of the governing body of the organisation, of each of its officers and of officials who are not officers of the organisation.

8. The rules must make provision as to the manner in which meetings, for transacting any business of the organisation, are to be convened and conducted.

9. The rules must specify the manner in which any rules of the organisation can be made, altered or revoked.

10. The rules must specify any body by which, and any official by whom, instructions may be given to members of the organisation on its behalf for any kind of industrial action, and the circumstances in which any such instructions may be so given.

11. The rules must make provision as to the manner in which, for any purposes of the organisation, elections are to be held or ballots taken, including eligibility for voting in any such election or ballot, the procedure preparatory to any such election or ballot, the procedure for counting and scrutiny of votes and ballot papers and the procedure for the declaration or notification of the result of any such election or ballot.

12. If the organisation is a federation of workers' organisations or a federation of employers' organisations, its rules must specify the circumstances (if any) in which the organisation has power to enter into agreements on behalf of its constituent or affiliated organisations.

13. The rules must specify the circumstances and the manner in which the organisation can be dissolved. SCH. 4

Requirements relating to members of organisation

14. The rules must specify the descriptions of persons who are eligible for membership of the organisation, 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.

15. The rules must specify—

(*a*) the contributions payable in respect of membership of the organisation (including any contributions payable in respect of admission or re-admission), and the amount of any such contributions or the basis on which that amount is to be assessed, and

(*b*) the procedure and penalties in case of default in payment of contributions.

16. The rules must specify—

(*a*) any descriptions of conduct in respect of which disciplinary action (whether by way of suspension, expulsion or otherwise) can be taken by or on behalf of the organisation against any of its members;

(*b*) the nature of the disciplinary action which can be so taken in respect of each such description of conduct; and

(*c*) the procedure for taking disciplinary action, including provision for appeals against decisions of the committee or other body responsible for taking it.

17. The rules must specify the circumstances in which, and the procedure, other than expulsion by way of disciplinary action, by which membership of the organisation can be terminated.

18. The rules must specify a procedure for inquiring into any complaint of a member of the organisation that action contrary to the rules of the organisation has been taken by the organisation or by any official of the organisation.

Requirements relating to property and finances of organisation

19. The rules must make provision as to the purposes for which, and the manner in which, any property or funds of the organisation are authorised to be applied or invested.

20. If any financial benefits are to be available to members of the organisation 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.

SCH. 4

21. The rules must make provision—

(*a*) for the keeping of proper accounting records, and for the preparation and auditing of accounts, in accordance with the provisions of this Act relating to those matters, and

(*b*) as to the rights of members of the organisation to inspect the accounting records and the register of members.

22. The rules must provide for the distribution of the property and funds of the organisation in the event of its being dissolved.

Registrar's power of exemption

23. Where, by reason of special circumstances relating to a particular trade union or employers' association, it appears to the registrar that a particular requirement set out in this Schedule would be inappropriate in the case of that trade union or employers' association, the registrar may waive that requirement; and, where he does so, this Schedule shall apply in that case as if that requirement were not set out in it.

Supplementary

24. Failure to fulfil any of the requirements set out in this Schedule shall not invalidate the rules of an organisation, and shall not confer any right, or make available any remedy, except in accordance with the provisions of sections 75 and 76 of this Act.

Section 88.

SCHEDULE 5

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 of this Schedule, the annual return of a trade union or an employers' association required by section 88(1) of this Act 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; and

(*c*) such other accounts (if any) as the registrar may require.

3. Every revenue account, every balance sheet and every other account contained in a return in accordance with paragraph 2 of this Schedule 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 of this Schedule, 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 of this Schedule 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 of this Schedule.

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 88(1) of this Act shall be a period other than the calendar year last preceding the date on which the return is sent;

(*b*) whether a direction under the preceding paragraph 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 of this Schedule, 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 and Corporate 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 by the Secretary of State, 1948 c. 38

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.

7. Notwithstanding anything in paragraph 6 of this Schedule, 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.

SCH. 5

8. A person who is not qualified under paragraph 6 of this Schedule 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 immediately before the passing of this Act;

(*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;

1871 c. 31.

(*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 of this Schedule.

1948 c. 38.

9.—(1) Two or more persons who are not qualified under paragraph 6 of this Schedule 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) of this paragraph persons who are not qualified under paragraph 6 of this Schedule 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 made by the Secretary of State may—

(*a*) substitute for any sum or number for the time being specified in sub-paragraph (1) of this paragraph 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;

(*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 SCH. 5

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 the next following sub-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 of this Schedule 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 of this Schedule, "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.

SCH. 5

14. Regulations made by the Secretary of State 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

(*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 of this Schedule 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, 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 of this Schedule, 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 87 of this Act;

(*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 paragraph (*a*) or paragraph (*b*) of section 87(1) of this Act, 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 88(1) of this Act to send a return to the registrar.

PART II

ANNUAL REPORTS

23.—(1) In every annual report of a trade union or an employers' association there shall be reproduced in full the annual return last sent by it to the registrar before the date on which the annual report is published.

(2) Every such annual report shall include such other information as may be prescribed.

24. Any person may apply to a trade union or employers' association of which he is not a member for a copy of its latest annual report published under section 88 of this Act, and shall be entitled to receive a copy of it on payment of such sum as may be prescribed.

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PART III

MEMBERS' SUPERANNUATION SCHEMES

Examination of superannuation schemes

25. Subject to paragraphs 31 to 33 of this Schedule, every trade union and every employers' association which at the commencement of this Act 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 Act, 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.

26. Where a members' superannuation scheme to which paragraph 25 of this Schedule 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.

27. 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

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

28. A copy of any report made by an actuary under paragraph 25 of this Schedule, 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 three years from the commencement of this Act.

29. Subject to paragraphs 32 and 33 of this Schedule, no trade union or employers' association shall after the commencement of this Act 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 27 of this Schedule 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 25 of this Schedule.

30. A copy of any report made to a trade union or employers' association under paragraph 25 or paragraph 29 of this Schedule shall, on the application of any of its members, be supplied to him free of charge.

31. 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 later than two years before the commencement of this Act, 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, fulfilled the requirements of paragraphs 26 and 27 of this Schedule,

the registrar may direct that paragraph 25 of this Schedule shall have effect, in relation to that scheme, as if for the reference to two years from the commencement of this Act there were substituted a reference to five years from the date by reference to which that examination was carried out.

32. 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 25 or (as the case may be) paragraph 29 of this Schedule, if he is satisfied that, by reason of the small number of members to whom the scheme is or would be applicable or for other special reasons, it is unnecessary for the scheme to be examined in accordance with those requirements.

33. The registrar may at any time revoke any exemption granted under paragraph 32 of this Schedule 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

34.—(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 25 of this Schedule 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 29 of this Schedule,

the trade union or employers' association in question shall arrange for the 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.

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(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 25 or paragraph 29 of this Schedule 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 were substituted a reference to such shorter period as may be specified in the direction.

35. The provisions of paragraphs 26 to 28 and paragraph 30 of this Schedule shall have effect in relation to the examination of a scheme under paragraph 34 of this Schedule as they have effect in relation to the examination of a scheme under paragraph 25 of this Schedule, but as if, in paragraph 28 of this Schedule, for the words "three years from the commencement of this Act" there were substituted the words "one year from the date by reference to which the examination was carried out".

Separate fund for members' superannuation scheme

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

37. After the end of the period of five years beginning with the date on which paragraph 36 of this Schedule 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 III

38. 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 contained 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 SCH. 5

(*c*) "separate fund" means a fund separate from the general funds of the trade union or employers' association.

SCHEDULE 6

Section 100.

PROVISIONS RELATING TO INDUSTRIAL TRIBUNALS

1. The Secretary of State shall by regulations (in this Schedule referred to as "the regulations") make such provision as appears to him 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 such proceedings, 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 as might be granted by a county court in England or 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 a statutory provision 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 other than allowances payable to members of industrial tribunals or assessors; 1946 c. 61.

SCH. 6

(*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 for the enforcement of any award of costs or expenses ; and

(*i*) for the registration and proof of decisions, orders and awards of industrial tribunals.

3.—(1) The regulations may enable an industrial tribunal to sit in private for the purpose of hearing evidence which in the opinion of the tribunal—

(*a*) relates to matters of such a nature that it would be against the interests of national security to allow the evidence to be given in public, or

(*b*) is likely to consist (wholly or in part) of information to which the next following sub-paragraph applies.

(2) This sub-paragraph applies to any information which, in relation to the person giving the evidence, is information of any of the descriptions specified in paragraphs (*b*) to (*f*) of subsection (1) of section 158 of this Act (any reference in those paragraphs to the employer being construed for this purpose as a reference to the person giving the evidence) or is information of the description specified in paragraph (*e*) of that subsection as modified by section 162(3) of this Act.

4. In relation to proceedings on complaints under section 106 of this Act 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 person making any such complaint, and the employer against whom it 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.

5.—(1) In relation to proceedings on complaints under section 106 of this Act the regulations shall also include provision precluding an industrial tribunal from entertaining such a complaint unless it is presented before the end of the period of four weeks beginning—

(*a*) in the case of a complaint relating to dismissal, with the effective date of termination, or

(*b*) in any other case, with the date of the action specified in the complaint (or, if that action occurred on two or more dates, the latest of those dates),

unless the tribunal is satisfied that in the circumstances it was not practicable for the complaint to be presented before the end of that period.

(2) Any provision made by regulations in pursuance of the preceding sub-paragraph shall have effect subject to any order of the Industrial Court under section 32 of this Act.

6. In relation to proceedings on complaints under section 107 of this Act, the regulations shall include provision precluding an industrial tribunal from entertaining such a complaint unless it is presented before the end of the period of four weeks beginning with whichever is the latest of the following dates, that is to say—

(*a*) the date of the action specified in the complaint (or, if that action occurred on two or more dates, the latest of those dates);

(*b*) the earliest date on which that action came to the knowledge of the complainant;

(*c*) where the complaint relates to a matter in respect of which an application has been made under section 81 of this Act, the date on which the registrar gave notice of his conclusions on investigating that matter or gave notice that he had determined not to proceed with the application.

7. The Arbitration Act 1950 shall not apply to any proceedings before an industrial tribunal. 1950 c. 72.

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

(*a*) a question referred to it under Part I of the Redundancy Payments Act 1965, and 1965 c. 62.

(*b*) a complaint presented under section 106 of this Act,

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 section 106 of this Act.

9. 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.

10.—(1) Any sum payable by way of compensation awarded by an industrial tribunal in any proceedings in England or Wales, where the award 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 county court.

(2) Any order made by an industrial tribunal making an award of compensation in any proceedings in Scotland may, as respects that award, be enforced in like manner as a recorded decree arbitral.

SCH. 6

(3) In this paragraph any reference to an award of an industrial tribunal—

(*a*) does not include any award which, on being reviewed, has been revoked by the tribunal, and

(*b*) in relation to an award which, on being reviewed, has been varied by the tribunal, shall be construed as a reference to the award as so varied.

11. Any person who without reasonable excuse fails to comply with any requirement imposed by the regulations in accordance with sub-paragraph (*c*) or sub-paragraph (*d*) of paragraph 2 of this Schedule shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

Section 152.

SCHEDULE 7

TERMS AND CONDITIONS OF EMPLOYMENT ACT 1959

PART I

AMENDMENTS OF SECTION 8

1959 c. 26. 1959 c. 69.

1. In paragraph (i) of the proviso to subsection (1) of section 8 of the Terms and Conditions of Employment Act 1959, after the words "other than", in the first place where they occur, there shall be inserted the words "the Wages Councils Act 1959 and" and for the words "enactment other than this section", in the second place where those words occur, there shall be substituted the words "such enactment."

2. In subsection (2) of that section, for the words "being or" there shall be substituted the words "which is registered as a trade union or an employers' association under the Industrial Relations Act 1971, and is, or is."

PART II

TERMS AND CONDITIONS OF EMPLOYMENT ACT 1959, AS AMENDED

Settlement of claims as to recognised terms or conditions of employment.

8.—(1) Where a claim is duly reported to the Secretary of State under this section—

(*a*) that terms or conditions of employment are established in any trade or industry, or section of a trade or industry, either generally or in any district, which have been settled by an agreement or award, and

(*b*) that the parties to the agreement, or to the proceedings in which the award was made, are or represent organisations of employers and organisations of workers, or associations of such organisations, and represent (generally or in the district in question, as the case may be) a substantial

proportion of the employers and of the workers in the trade, industry or section, being workers of the description (hereinafter referred to as " the relevant description ") to which the agreement or award relates, and

(*c*) that as respects any worker of the relevant description an employer engaged in the trade, industry or section (or, where the operation of the agreement or award is limited to a district, an employer so engaged in that district), whether represented as aforesaid or not, is not observing the terms or conditions (hereinafter referred to as " the recognised terms or conditions "),

the Secretary of State may take any steps which seem to him expedient to settle, or to secure the use of appropriate machinery to settle, the claim and shall, if the claim is not otherwise settled, refer it to the Industrial Arbitration Board:

Provided that—

(i) no claim shall be reported under this section as respects workers whose remuneration or minimum remuneration is fixed (otherwise than by the employer, with or without the approval of any other person) in pursuance of any enactment other than the Wages Councils Act 1959 and this section or in the case of whom provision is made by or under any such enactment for the settlement of questions as to remuneration or minimum remuneration; 1959 c. 69.

(ii) no claim shall be reported under this section as respects terms or conditions fixed as aforesaid.

(2) For the purposes of this section a claim, to be duly reported, must be reported to the Secretary of State in writing by an organisation or association which is registered as a trade union or an employers' association under the Industrial Relations Act 1971, and is, or is represented by, one of the parties mentioned in paragraph (*b*) of the foregoing subsection; and if in the opinion of the Secretary of State the report of a claim does not contain sufficient particulars he may require further particulars to be given, and if he does so the report shall not be treated as having been duly made until the Secretary of State is satisfied that the particulars required have been given.

(3) If on a reference under this section the Industrial Arbitration Board is satisfied that the claim is well founded, then, unless the Board is satisfied that the terms or conditions which the employer is observing are not less favourable than the recognised terms or conditions, the Board shall make an award requiring the employer to observe the recognised terms or conditions as respects all workers of the relevant description from time to time employed by him.

(4) An award under this section shall have effect as an implied term of the contract of employment, and shall have effect from such date as the Industrial Arbitration Board may determine, being a date not earlier than the date on which, in the opinion of the Board, the employer was first informed of the claim giving rise to the award by the organisation or association which reported the claim to the Secretary of State; and an award under this section shall cease to have effect on the coming into operation of an agreement or award varying or abrogating the recognised terms or conditions.

SCH. 7

(5) For the purposes of this section the carrying on of the activities of public or local authorities shall be treated as the carrying on of a trade or industry.

Short title.

9. This Act may be cited as the Terms and Conditions of Employment Act 1959.

SCHEDULE 8

ENACTMENTS AMENDED

Act	*Amendment*
The Conspiracy, and Protection of Property Act 1875 (38 & 39 Vict. c. 86)	In section 3, for the words " a trade dispute " there shall be substituted the words " an industrial dispute within the meaning of the Industrial Relations Act 1971 ".
The Trade Union Act 1913 (2 & 3 Geo. 5. c. 30)	For subsection (1) of section 2 there shall be substituted the following provision:— " In this Act ' organisation to which this Act applies ' means any organisation which is either— (*a*) an organisation of workers within the meaning of the Industrial Relations Act 1971, not being an organisation for the time being entered in the special register maintained under section 84 of that Act, or (*b*) an organisation of employers within the meaning of that Act, not being an organisation of employers which is for the time being registered as a company under the Companies Act 1948 ".
	In sections 3 to 6, for the words " a trade union ", wherever they occur, there shall be substituted the words " an organisation to which this Act applies ", and for the word " union " or the words " a union ", wherever it or they occur (except as part of the expression " trade union "), there shall be substituted the words " organisation to which this Act applies " or " an organisation to which this Act applies ", as the case may be; and for the words " Registrar of Friendly Societies " there shall be substituted the words " the registrar ".
	In subsection (2) of section 3, for the words from " and any such order " to " without appeal " there shall be substituted the words " and (subject to any appeal under section 115(1) of the Industrial Relations Act 1971) any such order shall be binding and conclusive on all parties ".

Act	*Amendment*	SCH. 8
	For section 7 there shall be substituted the following section:— "7. In this Act 'the registrar' has the same meaning as in the Industrial Relations Act 1971."	
	In the Schedule, for the words "Trade Union" there shall be substituted the word "Organisation".	
The Industrial Courts Act 1919 (9 & 10 Geo. 5. c. 69)	In sections 1, 2, 3, 7 and 9, for the words "Industrial Court", wherever they occur, there shall be substituted the words "Industrial Arbitration Board", and for the words "the Court", wherever they occur, there shall be substituted the words "the Board".	
The Road Haulage Wages Act 1938 (1 & 2 Geo. 6. c. 44)	In section 15(1), for the definition of "Trade Union" there shall be substituted the words "'Trade Union' means an organisation of workers within the meaning of the Industrial Relations Act 1971".	
The Industrial Assurance and Friendly Societies Act 1948 (11 & 12 Geo. 6. c. 39)	In section 6(1), for the words "or a trade union (whether registered or unregistered)" there shall be substituted the words "an organisation of workers within the meaning of the Industrial Relations Act 1971, or an organisation of employers within the meaning of that Act".	
	In section 16(4), for the words "trade union" there shall be substituted the words "organisation of workers or organisation of employers".	
The Insurance Companies Act 1958 (6 & 7 Eliz. 2. c. 72)	In section 1, in subsection (5), the words "or to trade unions" shall be omitted, and after that subsection there shall be inserted the following subsection:— "(5A) Where an organisation which is either— (*a*) a trade union or an employers' association within the meaning of the Industrial Relations Act 1971, or (*b*) an organisation for the time being entered in the provisional register maintained under section 78 of that Act, 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."	

SCH. 8

Act	*Amendment*
The Wages Councils Act 1959 (7 & 8 Eliz. 2. c. 69)	Sections 1, 2, 3, 6, 7 and 9 and Schedule 1 shall be amended in accordance with paragraph 40 of Schedule 3 to this Act. In section 5, at the end of subsection (1) there shall be 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 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 ". In section 6, in subsection (2), the words from " having regard " to " both those considerations " shall be omitted, and subsection (4) shall be omitted. In section 22(3) for the words " the report " there shall be substituted the words " any report ". In section 24, for the provision defining " wages council " and " commission of inquiry " there shall be substituted the words " ' wages council ' means a wages council established under this Act ". In Schedule 1, after paragraph 2 there shall be inserted 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 (1964 c. 24)	In section 1— (*a*) in subsection (1)(*a*), for the words " two or more trade unions may amalgamate and become one trade union " there shall be substituted the

words " two or more organisations to which this Act applies may amalgamate and become one such organisation ", for the words " those unions " there shall be substituted the words " those organisations ", and for the words " amalgamating unions " there shall be substituted the words " amalgamating organisations ";

(*b*) in subsection (1)(*b*), for the words " a trade union may transfer its engagements to any other trade union " there shall be substituted the words " an organisation to which this Act applies may transfer its engagements to any other such organisation ", and for the words " transferor union " there shall be substituted the words " transferor organisation ";

(*c*) after subsection (1) there shall be inserted—

" (1A) In this Act ' organisation to which this Act applies ' means an organisation which is either—

(*a*) an organisation of workers within the meaning of the Act of 1971, not being an organisation for the time being entered in the special register, or

(*b*) an organisation of employers within the meaning of that Act, not being an organisation which is for the time being registered as a company under the Companies Act 1948.

but which (in either case) is not a Northern Ireland union.";

(*d*) in subsections (2) to (6), for the words " the union " wherever they occur, " a trade union " and " any trade union " there shall be substituted respectively the words " the organisation ", " an organisation " and " any organisation ".

SCH. 8	*Act*	*Amendment*
		In section 2—
		(*a*) for the words " trade unions " and " a trade union ", wherever they occur, there shall be substituted respectively the words " organisations " and " an organisation "; and
		(*b*) for the word " union " wherever it occurs (except as part of the expression " trade union ") there shall be substituted the word " organisation".
		In section 3—
		(*a*) for the words " Where a trade union proposes to transfer its engagements to another trade union " there shall be substituted the words " Where an organisation to which this Act applies proposes to transfer its engagements to another such organisation "; and
		(*b*) for the word " union " wherever it occurs (except as part of the expression " trade union ") there shall be substituted the word " organisation".
		In section 4—
		(*a*) for the words " a trade union " there shall be substituted the words " an organisation to which this Act applies ";
		(*b*) for the words " the union " and " the trade union ", wherever they occur, there shall be substituted the words " the organisation "; and
		(*c*) for the words " the High Court ", wherever they occur, there shall be substituted the words " the National Industrial Relations Court ".
		In section 5—
		(*a*) for the words " trade union " and " trade unions ", wherever they occur, there shall be substituted respectively the words " organisation " and " organisations ";
		(*b*) for the words " unions " and " union ", wherever they occur (except as part of the expression " trade unions " or " trade union ") there shall be substituted respectively the words " organisations " and " organisation ".

Act	*Amendment*	SCH. 8

In section 6—

(*a*) in subsections (1) and (3), for the words " a trade union " there shall be substituted the words " an organisation to which this Act applies ", and for the words " the union " there shall be substituted the words " the organisation ";

(*b*) for subsection (2) there shall be substituted—

" (2) In the case of a trade union or an employers' association, a change of name shall not take effect until it is registered by the Registrar under this Act; and the Registrar shall not register a change of name if it is identical with that by which another organisation is for the time being registered as a trade union or employers' association under the Act of 1971 or this Act, or by which an organisation is for the time being entered in the special register, or if it is a name so nearly resembling the name by which another organisation is so registered or entered as, in the opinion of the Registrar, to be likely to deceive."

In section 9(1), for the words from " the amalgamating unions " to the end of the subsection there shall be substituted the following words—

" ' the Act of 1971 ' means the Industrial Relations Act 1971;

' the amalgamating organisations ' and ' the amalgamated organisation ', in relation to a proposed amalgamation, mean respectively the organisations proposing to amalgamate and the organisation which is to result from the proposed amalgamation;

' employers' association ' has the same meaning as in the Act of 1971;

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

' organisation to which this Act applies ' has the meaning assigned to it by section 1(1A) of this Act;

SCH. 8 *Act* *Amendment*

'the Registrar', in relation to any matter authorised or required by or under this Act to be dealt with by the Registrar, means—

(*a*) the Chief Registrar of Trade Unions and Employers' Associations, or

(*b*) any assistant registrar appointed under section 63 of the Act of 1971 who, in accordance with any general or special directions given by the said Chief Registrar, is authorised or required to act in relation to that matter;

'the special register' means the register maintained under section 84 of the Act of 1971;

'trade union' has the same meaning as in the Act of 1971;

'the transferor organisation' and 'the transferee organisation', in relation to a proposed transfer of engagements, mean respectively the organisation proposing to transfer its engagements and the organisation proposing to accept them."

In section 10(2), for the words 'a trade union', there shall be substituted the words 'an organisation to which this Act applies'.

In Schedule 1, for the words 'the trade union' and 'the union', wherever they occur, there shall be substituted the words "the organisation".

In Schedule 2—

(*a*) in paragraph 1, for the words "a trade union" there shall be substituted the words "an organisation to which this Act applies";

(*b*) in paragraph 2(1), for the words "the trade union or trade unions" there shall be substituted the words "the organisation or organisations"; and

(*c*) in paragraph 4, for the words "is to be a trade union or" there shall be substituted the words "is, or is not, to be".

Act	*Amendment*	SCH. 8
The Companies Act 1967 (1967 c. 81)	In section 60(1), in paragraph (*c*) the words " or to trade unions " shall be omitted, and after paragraph (*d*) there shall be inserted the following paragraph:— " (*e*) an organisation which is either a trade union or an employers' association within the meaning of the Industrial Relations Act 1971 or an organisation for the time being entered in the provisional register maintained under section 78 of that Act, where the insurance business carried on by the organisation is limited to the provision for its members of provident benefits or strike benefits."	
The Merchant Shipping Act 1970 (1970 c. 36)	In section 42, in subsection (2), for the words " trade dispute " there shall be substituted the words " industrial dispute ", and for subsection (3) there shall be substituted the following subsection:— " (3) In this section ' industrial dispute ' has the same meaning as in the Industrial Relations Act 1971."	

SCHEDULE 9

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
34 & 35 Vict. c. 31.	The Trade Union Act 1871.	The whole Act.
38 & 39 Vict. c. 86.	The Conspiracy, and Protection of Property Act 1875.	In section 3, the paragraph inserted by section 1 of the Trade Disputes Act 1906. Section 4. In section 11, the word " four ". Section 14. In section 18, paragraph (1).
38 & 39 Vict. c. 90.	The Employers and Workmen Act 1875.	In section 3, the words from " (3) Where the court " onwards. In section 7, the words from " The court may, if the person so summoned " onwards. Section 8.
39 & 40 Vict. c. 22.	The Trade Union Act Amendment Act 1876.	The whole Act.
46 & 47 Vict. c. 47.	The Provident Nominations and Small Intestacies Act 1883.	The whole Act.

SCH. 9

Chapter	Short Title	Extent of Repeal
59 & 60 Vict. c. 25.	The Friendly Societies Act 1896.	In section 2(1), paragraph (*a*) and the words " trade union and ". In section 4(1), the words " Scotland and ", in both places where they occur, and the word " respectively " where it first occurs.
6 Edw. 7. c. 47.	The Trade Disputes Act 1906.	The whole Act.
2 & 3 Geo. 5. c. 30.	The Trade Union Act 1913.	In section 1, subsection (1), and in subsection (2) the words " the objects mentioned in section sixteen of the Trade Union Act Amendment Act 1876, namely ". In section 2, subsections (2) to (5).
9 & 10 Geo. 5. c. 100.	The Electricity (Supply) Act 1919.	Section 31.
11 & 12 Geo. 6. c. 39.	The Industrial Assurance and Friendly Societies Act 1948.	In section 23(1), paragraph (*d*).
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	In Part II of Schedule 1, in the entry beginning " An Industrial Court ", the words " including a court ". In the Part substituted for the said Part II by Schedule 3 (Northern Ireland), in the entry beginning " An Industrial Court ", the words from " including " onwards. In Part III of Schedule 1 (and in the Part substituted for the said Part III by Schedule 3 (Northern Ireland)), in the entry relating to members of wages councils and other persons appointed under the Wages Councils Act 1959 the words " or Member of a Commission of Inquiry appointed under paragraph 1(*a*) of Schedule 4 to that Act ".
6 & 7 Eliz. 2. c. 72.	The Insurance Companies Act 1958.	In section 1(5), the words " or to trade unions ".
7 & 8 Eliz. 2. c. 69.	The Wages Councils Act 1959.	In section 6, in subsection (2) the words from " having regard " to " both those considerations ", and subsection (4). Section 9(1). In section 23, the words " a commission of inquiry ".

SCH. 9

Chapter	Short Title	Extent of Repeal
7 & 8 Eliz. 2. c. 69—*cont.*	The Wages Council Act 1959—*cont.*	In section 25(1), the words " or Member of a Commission of Inquiry appointed under paragraph 1(*a*) of the Fourth Schedule to that Act ". Schedule 4.
1964 c. 24.	The Trade Union (Amalgamations, etc.) Act 1964.	In section 4, subsection (11). In section 7(1)(*c*), the words " or by any assistant registrar ". Section 8.
1965 c. 32.	The Administration of Estates (Small Payments) Act 1965.	In Schedule 1, Part I, and in Schedule 3, the entries relating to the Provident Nominations and Small Intestacies Act 1883.
1965 c. 48.	The Trade Disputes Act 1965.	The whole Act.
1965 c. 62.	The Redundancy Payments Act 1965.	In section 46, subsections (1) to (4).
1967 c. 81	The Companies Act 1967.	In section 60(1)(*c*), the words " or to trade unions ".