STATUTORY INSTRUMENTS

# 1976 No. 661

# INDUSTRIAL TRIBUNALS

## The Industrial Tribunals (Labour Relations) (Amendment) Regulations 1976

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| *Made* - - - - | *27th April* 1976 |
| *Laid before Parliament* | *11th May* 1976 |
| *Coming into Operation* | *1st June* 1976 |

The Secretary of State in exercise of the powers conferred on him by paragraph 21 of Part III of Schedule 1 to the Trade Union and Labour Relations Act 1974**(a)**, as amended by paragraphs 18, 19, 22 and 23 of Part III of Schedule 16 to the Employment Protection Act 1975**(b)**, and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals hereby makes the following Regulations amending the Industrial Tribunals (Labour Relations) Regulations 1974**(c)** (hereinafter referred to as "the principal Regulations"):—

*Citation, commencement and interpretation*

**1.**—(1) These Regulations may be cited as the Industrial Tribunals (Labour Relations) (Amendment) Regulations 1976 and shall come into operation on 1st June 1976.

(2) The Interpretation Act 1889**(d)** shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

*Amendment of principal Regulations*

**2.** In Regulation 2(2) of the principal Regulations:—

(*a*) for the definition of "the 1965 Act" there shall be substituted the following definition:—

" 'the 1965 Act' means the Redundancy Payments Act 1965**(e)** as amended by the Redundancy Rebates Act 1969**(f)** and the Employment Protection Act 1975";

(*b*) for the definition of "the 1974 Act" there shall be substituted the following definition:—

" 'the 1974 Act' means the Trade Union and Labour Relations Act 1974 as amended by the Employment Protection Act 1975 and the

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(a) 1974 c. 52.
(b) 1975 c. 71.
(c) S.I. 1974/1386 (1974 II, p. 5330).
(d) 1889 c. 63.
(e) 1965 c. 62.
(f) 1969 c. 8.

Trade Union and Labour Relations (Amendment) Act 1976**(a)**";

(*c*) there shall be inserted immediately after the definition of "the clerk to the tribunal" the following definition:—

" 'the Commission' means the Equal Opportunities Commission established under section 53 of the Sex Discrimination Act 1975**(b)**.".

**3.** In Rule 6(1)(*c*) of the Schedule to the principal Regulations for the words "be seriously prejudicial to the interests of" there shall be substituted the words "cause substantial injury to" and for the words "28(1)" there shall be substituted the words "29(1).".

**4.** For paragraph (5) of Rule 6 of the Schedule to the principal Regulations there shall be substituted the following paragraph:—

"The Secretary of State if he so elects shall be entitled to appear as if he were a party and be heard at any hearing of or in connection with an originating application in proceedings which may involve payments out of the Redundancy Fund under the provisions of any enactment.".

**5.** For paragraph (2) of Rule 9 of the Schedule to the principal Regulations there shall be substituted the following paragraph:—

"(2) An application for the purposes of paragraph (1) of this Rule may be made at the hearing. If the application is not made at the hearing, such application shall be made to the Secretary of the Tribunals at any time from the date of the hearing until 14 days after the date of the entry of a decision in the Register and must be in writing stating the grounds in full.".

**6.** For paragraph (2) of Rule 10 of the Schedule to the principal Regulations there shall be substituted the following paragraph:—

"(2) Notwithstanding the provisions of paragraph (1) of this Rule where—

(*a*) on the application of a party to the proceedings the tribunal has postponed the day or time fixed for the hearing or has adjourned the hearing, the tribunal may make orders against that party or, as the case may be, in favour of that party as at paragraph (1)(*a*) and (*b*) of this Rule as respects any costs incurred or any allowances paid as a result of the postponement or adjournment; or

(*b*) any postponement or adjournment of the hearing has been caused by the respondent where (in accordance with paragraph 21(3A) of Schedule 1 to the 1974 Act in relation to a complaint of unfair dismissal)—

(i) the employee has expressed a wish to be reinstated or re-engaged which has been communicated to the employer at least 7 days before the hearing of the complaint; or

(ii) the proceedings arise out of the employer's failure to permit the employee to return to work after an absence due to pregnancy or confinement,

the tribunal shall, in the absence of a special reason for his failure to adduce reasonable evidence as to the availability of the job from which the employee was dismissed, or, as the case may be, which she held before her absence, or of comparable or suitable employment, make orders against that respondent as at paragraph (1)(*a*) and (*b*) of this Rule as respects any costs incurred or any allowances paid as a result of the postponement or adjournment.".

**(a)** 1976 c. 7. **(b)** 1975 c. 65.

**7.** In Rule 11(2)(*b*) of the Schedule to the principal Regulations immediately after the word "hearing" there shall be inserted the words "particularly as respects cases under the provisions of any enactment providing for conciliation for the purpose of giving an opportunity for the complaint to be settled by way of conciliation and withdrawn.".

**8.** After Rule 14(5) of the Schedule to the principal Regulations there shall be inserted the following paragraph:—

"(6) In relation to the matters specified in paragraphs (3), (4), (7) and (8) of Rule 8 and Rule 9(5), the Secretary of the Tribunals shall also send copies of the relevant documents to the Commission in all cases under the Equal Pay Act 1970**(a)** or the Sex Discrimination Act 1975.".

Signed by order of the Secretary of State.

27th April 1976.

*Harold Walker*,
Minister of State,
Department of Employment.

## EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations amend the Industrial Tribunals (Labour Relations) Regulations 1974 mainly as a result of the Employment Protection Act 1975. The principal changes made include:—

(*a*) a wider provision enabling the Secretary of State to appear in proceedings which may involve payments out of the Redundancy Fund;

(*b*) an extension of the time limit in regard to applications for review to enable them to be made at any time from the date of the hearing until 14 days after the promulgation of the original decision;

(*c*) power for the tribunal to award costs against an employer whose failure, without a special reason, to adduce reasonable evidence in reinstatement or re-engagement cases causes an adjournment; and

(*d*) a requirement that the Secretary of the Tribunals should send copies to the Equal Opportunities Commission of all tribunal decisions under the Equal Pay Act 1970 or the Sex Discrimination Act 1975.

**(a)** 1970 c. 41.

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