



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART V

#### INDUSTRIAL ACTION

##### *Protection of acts in contemplation or furtherance of trade dispute*

#### **219 Protection from certain tort liabilities**

- (1) An act done by a person in contemplation or furtherance of a trade dispute is not actionable in tort on the ground only—
  - (a) that it induces another person to break a contract or interferes or induces another person to interfere with its performance, 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 its performance interfered with, or that he will induce another person to break a contract or interfere with its performance.
- (2) An agreement or combination by two or more persons to do or procure the doing of an act in contemplation or furtherance of a trade dispute is not actionable in tort if the act is one which if done without any such agreement or combination would not be actionable in tort.
- (3) Nothing in subsections (1) and (2) prevents an act done in the course of picketing from being actionable in tort unless it is done in the course of attendance declared lawful by section 220 (peaceful picketing)
- (4) Subsections (1) and (2) have effect subject to sections 222 to 225 (action excluded from protection) and to section 226 (requirement of ballot before action by trade union); and in those sections “not protected” means excluded from the protection afforded by this section.

**220 Peaceful picketing**

- (1) It is lawful for a person in contemplation or furtherance of a trade dispute to attend—
- (a) at or near his own place of work, or
  - (b) if he is an official of a trade union, at or near the place of work of a member of the union whom he is accompanying and whom he represents,
- for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working.
- (2) If a person works or normally works—
- (a) otherwise than at any one place, or
  - (b) at a place the location of which is such that attendance there for a purpose mentioned in subsection (1) is impracticable,
- his place of work for the purposes of that subsection shall be any premises of his employer from which he works or from which his work is administered.
- (3) In the case of a worker not in employment where—
- (a) his last employment was terminated in connection with a trade dispute, or
  - (b) the termination of his employment was one of the circumstances giving rise to a trade dispute,
- in relation to that dispute his former place of work shall be treated for the purposes of subsection (1) as being his place of work.
- (4) A person who is an official of a trade union by virtue only of having been elected or appointed to be a representative of some of the members of the union shall be regarded for the purposes of subsection (1) as representing only those members; but otherwise an official of a union shall be regarded for those purposes as representing all its members.

**221 Restrictions on grant of injunctions and interdicts**

- (1) Where—
- (a) an application for an injunction or interdict is made to a court in the absence of the party against whom it is sought or any representative of his, and
  - (b) he claims, or in the opinion of the court would be likely to claim, that he acted in contemplation or furtherance of a trade dispute,
- the court shall not grant the injunction or interdict unless satisfied that all steps which in the circumstances were reasonable have been taken with a view to securing that notice of the application and an opportunity of being heard with respect to the application have been given to him.
- (2) Where—
- (a) an application for an interlocutory injunction is made to a court pending the trial of an action, and
  - (b) the party against whom it is sought claims that he acted in contemplation or furtherance of a trade dispute,
- the court shall, in exercising its discretion whether or not to grant the injunction, have regard to the likelihood of that party's succeeding at the trial of the action in establishing any matter which would afford a defence to the action under section 219 (protection from certain tort liabilities) or section 220 (peaceful picketing).

This subsection does not extend to Scotland.

### *Action excluded from protection*

#### **222 Action to enforce trade union membership**

- (1) An act is not protected if the reason, or one of the reasons, for which it is done is the fact or belief that a particular employer—
  - (a) is employing, has employed or might employ a person who is not a member of a trade union, or
  - (b) is failing, has failed or might fail to discriminate against such a person.
- (2) For the purposes of subsection (1)(b) an employer discriminates against a person if, but only if, he ensures that his conduct in relation to—
  - (a) persons, or persons of any description, employed by him, or who apply to be, or are, considered by him for employment, or
  - (b) the provision of employment for such persons,is different, in some or all cases, according to whether or not they are members of a trade union, and is more favourable to those who are.
- (3) An act is not protected if it constitutes, or is one of a number of acts which together constitute, an inducement or attempted inducement of a person—
  - (a) to incorporate in a contract to which that person is a party, or a proposed contract to which he intends to be a party, a term or condition which is or would be void by virtue of section 144 (union membership requirement in contract for goods or services), or
  - (b) to contravene section 145 (refusal to deal with person on grounds relating to union membership).
- (4) References in this section to an employer employing a person are to a person acting in the capacity of the person for whom a worker works or normally works.
- (5) References in this section to not being a member of a trade union are to not being a member of any trade union, of a particular trade union or of one of a number of particular trade unions.

Any such reference includes a reference to not being a member of a particular branch or section of a trade union or of one of a number of particular branches or sections of a trade union.

#### **223 Action taken because of dismissal for taking unofficial action**

An act is not protected if the reason, or one of the reasons, for doing it is the fact or belief that an employer has dismissed one or more employees in circumstances such that by virtue of section 237 (dismissal in connection with unofficial action) they have no right to complain of unfair dismissal.

#### **224 Secondary action**

- (1) An act is not protected if one of the facts relied on for the purpose of establishing liability is that there has been secondary action which is not lawful picketing.
- (2) There is secondary action in relation to a trade dispute when, and only when, a person—

- (a) induces another to break a contract of employment or interferes or induces another to interfere with its performance, or
- (b) threatens that a contract of employment under which he or another is employed will be broken or its performance interfered with, or that he will induce another to break a contract of employment or to interfere with its performance,

and the employer under the contract of employment is not the employer party to the dispute.

- (3) Lawful picketing means acts done in the course of such attendance as is declared lawful by section 220 (peaceful picketing)—
- (a) by a worker employed (or, in the case of a worker not in employment, last employed) by the employer party to the dispute, or
  - (b) by a trade union official whose attendance is lawful by virtue of subsection (1) (b) of that section.

- (4) For the purposes of this section an employer shall not be treated as party to a dispute between another employer and workers of that employer; and where more than one employer is in dispute with his workers, the dispute between each employer and his workers shall be treated as a separate dispute.

In this subsection “worker” has the same meaning as in section 244 (meaning of “trade dispute”).

- (5) An act in contemplation or furtherance of a trade dispute which is primary action in relation to that dispute may not be relied on as secondary action in relation to another trade dispute.

Primary action means such action as is mentioned in paragraph (a) or (b) of subsection (2) where the employer under the contract of employment is the employer party to the dispute.

- (6) In this section “contract of employment” includes any contract under which one person personally does work or performs services for another, and related expressions shall be construed accordingly.

## **225 Pressure to impose union recognition requirement**

- (1) An act is not protected if it constitutes, or is one of a number of acts which together constitute, an inducement or attempted inducement of a person—
- (a) to incorporate in a contract to which that person is a party, or a proposed contract to which he intends to be a party, a term or condition which is or would be void by virtue of section 186 (recognition requirement in contract for goods or services), or
  - (b) to contravene section 187 (refusal to deal with person on grounds of union exclusion).
- (2) An act is not protected if—
- (a) it interferes with the supply (whether or not under a contract) of goods or services, or can reasonably be expected to have that effect, and
  - (b) one of the facts relied upon for the purpose of establishing liability is that a person has—
    - (i) induced another to break a contract of employment or interfered or induced another to interfere with its performance, or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) threatened that a contract of employment under which he or another is employed will be broken or its performance interfered with, or that he will induce another to break a contract of employment or to interfere with its performance, and
- (c) the reason, or one of the reasons, for doing the act is the fact or belief that the supplier (not being the employer under the contract of employment mentioned in paragraph (b)) does not, or might not—
  - (i) recognise one or more trade unions for the purpose of negotiating on behalf of workers, or any class of worker, employed by him, or
  - (ii) negotiate or consult with, or with an official of, one or more trade unions.

#### *Requirement of ballot before action by trade union*

### **226 Requirement of ballot before action by trade union**

- (1) An act done by a trade union to induce a person to take part, or continue to take part, in industrial action is not protected unless the industrial action has the support of a ballot.
- (2) Industrial action shall be regarded as having the support of a ballot only if—
  - (a) the union has held a ballot in respect of the action in relation to which the requirements of sections 227 to 232 were satisfied,
  - (b) the majority voting in that ballot answered “Yes” to the question applicable in accordance with section 229(2) to industrial action of the kind to which the act of inducement relates, and
  - (c) the requirements of section 233 (calling of industrial action with support of ballot) are satisfied.
- (3) Where separate workplace ballots are held by virtue of section 228(1), industrial action shall be regarded as having the support of a ballot if the above conditions are satisfied in relation to the ballot for the place of work of the person induced to take part, or continue to take part, in the industrial action.
- (4) For the purposes of this section an inducement, in relation to a person, includes an inducement which is or would be ineffective, whether because of his unwillingness to be influenced by it or for any other reason.

### **227 Entitlement to vote in ballot**

- (1) Entitlement to vote in the ballot must be accorded equally to all the members of the trade union who it is reasonable at the time of the ballot for the union to believe will be induced to take part or, as the case may be, to continue to take part in the industrial action in question, and to no others.
- (2) The requirement in subsection (1) shall be taken not to have been satisfied if any person who was a member of the trade union at the time when the ballot was held and was denied entitlement to vote in the ballot is induced by the union to take part or, as the case may be, to continue to take part in the industrial action.

## 228 Separate workplace ballots

- (1) Subject to the following provisions, where the members who it is reasonable at the time of the ballot for the union to believe will be induced to take part, or continue to take part, in the industrial action in question have different places of work, separate ballots shall be held for each place of work.

In such a case entitlement to vote in the ballot for each place of work shall be accorded only to such of those members as the union reasonably believes to have that as their place of work.

- (2) Subsection (1) does not apply if at the time of the ballot it is reasonable for the union to believe, and it does believe, that all the members who are accorded entitlement to vote in the ballot have the same place of work.
- (3) Subsection (1) does not apply if at the time of the ballot it is reasonable for the union to believe, and it does believe, that there is in relation to each of the members of the union who is accorded entitlement to vote in the ballot some factor (whether or not the same factor) which—
- (a) relates to the terms or conditions of his employment or to the occupational description which is applicable to him in his employment,
  - (b) is a factor which he has in common with one or more of the other members of the union who are accorded that entitlement, and
  - (c) in a case where there are individuals employed by the same employer as he is who are members of the union but are not accorded that entitlement, is not a factor—
    - (i) which he has in common with any of those individuals, or
    - (ii) which individuals employed by that employer have in common as a consequence of having the same place of work;

nor does that subsection apply if at the time of the ballot it is reasonable for the union to believe, and it does believe, that the above conditions would be satisfied if any overseas members accorded entitlement to vote in the ballot were disregarded.

## 229 Voting paper

- (1) The method of voting in a ballot must be by the marking of a voting paper by the person voting.
- (2) The voting paper must contain at least one of the following questions—
- (a) a question (however framed) which requires the person answering it to say, by answering “Yes” or “No”, whether he is prepared to take part or, as the case may be, to continue to take part in a strike;
  - (b) a question (however framed) which requires the person answering it to say, by answering “Yes” or “No”, whether he is prepared to take part or, as the case may be, to continue to take part in industrial action short of a strike.
- (3) The voting paper must specify who, in the event of a vote in favour of industrial action, is authorised for the purposes of section 233 to call upon members to take part or continue to take part in the industrial action.

The person or description of persons so specified need not be authorised under the rules of the union but must be within section 20(3) (persons for whose acts the union is taken to be responsible).

- (4) The following statement must (without being qualified or commented upon by anything else on the voting paper) appear on every voting paper—  
“If you take part in a strike or other industrial action, you may be in breach of your contract of employment.”.

### **230 Conduct of ballot**

- (1) Every person who is entitled to vote in the ballot must—
- (a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees, and
  - (b) so far as is reasonably practicable, be enabled to do so without incurring any direct cost to himself.
- (2) So far as is reasonably practicable, every person who is entitled to vote in the ballot must—
- (a) be supplied with a voting paper, or
  - (b) have one made available to him immediately before, immediately after, or during his working hours, at his place of work or at a place which is more convenient for him.
- (3) So far as reasonably practicable, every person who is entitled to vote in the ballot must be given either—
- (a) a convenient opportunity to vote by post, or
  - (b) an opportunity to vote immediately before, immediately after, or during, his working hours at his place of work or at a place which is more convenient for him,

or, as alternatives, both of those opportunities.

No opportunity to vote shall be given except as mentioned above.

- (4) A ballot shall be conducted so as to secure that—
- (a) so far as is reasonably practicable, those voting do so in secret, and
  - (b) the votes given in the ballot are fairly and accurately counted.
- For the purposes of paragraph (b) an inaccuracy in counting shall be disregarded if it is accidental and on a scale which could not affect the result of the ballot.

### **231 Information as to result of ballot**

As soon as is reasonably practicable after the holding of the ballot, the trade union shall take such steps as are reasonably necessary to ensure that all persons entitled to vote in the ballot are informed of the number of—

- (a) votes cast in the ballot,
- (b) individuals answering “Yes” to the question, or as the case may be, to each question,
- (c) individuals answering “No” to the question, or, as the case may be, to each question, and
- (d) spoiled voting papers.

## **232 Balloting of overseas members**

- (1) A trade union which has overseas members may choose whether or not to accord any of those members entitlement to vote in a ballot; and nothing in section 227 to 230 applies in relation to an overseas member or a vote cast by such a member.
- (2) Where overseas members have voted in the ballot, section 231 (information as to result of ballot) shall be read as requiring the information mentioned in that provision—
  - (a) to be provided to all those entitled to vote in the ballot other than overseas members, and
  - (b) to distinguish between overseas members and other members.
- (3) An “overseas member” of a trade union means a member (other than a merchant seaman or offshore worker) who is outside Great Britain throughout the period during which votes may be cast.

For this purpose—

“merchant seaman” means a person whose employment, or the greater part of it, is carried out on board sea-going ships; and

“offshore worker” means a person in offshore employment, other than one who is in such employment in an area where the law of Northern Ireland applies.

- (4) A member who throughout the period during which votes may be cast is in Northern Ireland shall not be treated as an overseas member—
  - (a) where the ballot is one to which section 228(1) or (2) applies (workplace ballots) and his place of work is in Great Britain, or
  - (b) where the ballot is one to which section 228(3) applies (general ballots) and relates to industrial action involving members both in Great Britain and in Northern Ireland.
- (5) In relation to offshore employment the references in subsection (4) to Northern Ireland include any area where the law of Northern Ireland applies and the references to Great Britain include any area where the law of England and Wales or Scotland applies.

## **233 Calling of industrial action with support of ballot**

- (1) Industrial action shall not be regarded as having the support of a ballot unless it is called by a specified person and the conditions specified below are satisfied.
- (2) A “specified person” means a person specified or of a description specified in the voting paper for the ballot in accordance with section 229(3).
- (3) The conditions are that—
  - (a) there must have been no call by the trade union to take part or continue to take part in industrial action to which the ballot relates, or any authorisation or endorsement by the union of any such industrial action, before the date of the ballot;
  - (b) there must be a call for industrial action by a specified person, and industrial action to which it relates must take place, before the ballot ceases to be effective in accordance with section 234.
- (4) For the purposes of this section a call shall be taken to have been made by a trade union if it was authorised or endorsed by the union; and the provisions of section 20(2)



to (4) apply for the purpose of determining whether a call, or industrial action, is to be taken to have been so authorised or endorsed.

### **234 Period after which ballot ceases to be effective**

- (1) Subject to the following provisions, a ballot ceases to be effective for the purposes of section 233(3)(b) at the end of the period of four weeks beginning with the date of the ballot.
- (2) Where for the whole or part of that period the calling or organising of industrial action is prohibited—
  - (a) by virtue of a court order which subsequently lapses or is discharged, recalled or set aside, or
  - (b) by virtue of an undertaking given to a court by any person from which he is subsequently released or by which he ceases to be bound,the trade union may apply to the court for an order that the period during which the prohibition had effect shall not count towards the period referred to in subsection (1).
- (3) The application must be made forthwith upon the prohibition ceasing to have effect—
  - (a) to the court by virtue of whose decision it ceases to have effect, or
  - (b) where an order lapses or an undertaking ceases to bind without any such decision, to the court by which the order was made or to which the undertaking was given;and no application may be made after the end of the period of eight weeks beginning with the date of the ballot.
- (4) The court shall not make an order if it appears to the court—
  - (a) that the result of the ballot no longer represents the views of the union members concerned, or
  - (b) that an event is likely to occur as a result of which those members would vote against industrial action if another ballot were to be held.
- (5) No appeal lies from the decision of the court to make or refuse an order under this section.
- (6) The period between the making of an application under this section and its determination does not count towards the period referred to in subsection (1).

But a ballot shall not by virtue of this subsection (together with any order of the court) be regarded as effective for the purposes of section 233(3)(b) after the end of the period of twelve weeks beginning with the date of the ballot.

### **235 Construction of references to contract of employment**

In sections 226 to 234 (requirement of ballot before action by trade union) references to a contract of employment include any contract under which one person personally does work or performs services for another; and related expressions shall be construed accordingly.

*No compulsion to work***236 No compulsion to work**

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 attend at any place for the doing of any work.

*Loss of unfair dismissal protection***237 Dismissal of those taking part in unofficial industrial action**

- (1) An employee has no right to complain of unfair dismissal if at the time of dismissal he was taking part in an unofficial strike or other unofficial industrial action.
- (2) A strike or other industrial action is unofficial in relation to an employee unless—
  - (a) he is a member of a trade union and the action is authorised or endorsed by that union, or
  - (b) he is not a member of a trade union but there are among those taking part in the industrial action members of a trade union by which the action has been authorised or endorsed.

Provided that, a strike or other industrial action shall not be regarded as unofficial if none of those taking part in it are members of a trade union.

- (3) The provisions of section 20(2) apply for the purpose of determining whether industrial action is to be taken to have been authorised or endorsed by a trade union.
- (4) The question whether industrial action is to be so taken in any case shall be determined by reference to the facts as at the time of dismissal.

Provided that, where an act is repudiated as mentioned in section 21, industrial action shall not thereby be treated as unofficial before the end of the next working day after the day on which the repudiation takes place.

- (5) In this section the “time of dismissal” means—
  - (a) where the employee’s contract of employment is terminated by notice, when the notice is given,
  - (b) where the employee’s contract of employment is terminated without notice, when the termination takes effect, and
  - (c) where the employee is employed under a contract for a fixed term which expires without being renewed under the same contract, when that term expires;

and a “working day” means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971.

- (6) For the purposes of this section membership of a trade union for purposes unconnected with the employment in question shall be disregarded; but an employee who was a member of a trade union when he began to take part in industrial action shall continue to be treated as a member for the purpose of determining whether that action is

unofficial in relation to him or another notwithstanding that he may in fact have ceased to be a member.

### **238 Dismissals in connection with other industrial action**

- (1) This section applies in relation to an employee who has a right to complain of unfair dismissal (the “complainant”) and who claims to have been unfairly dismissed, where at the date of the dismissal—
  - (a) the employer was conducting or instituting a lock-out, or
  - (b) the complainant was taking part in a strike or other industrial action.
- (2) In such a case an industrial tribunal shall not determine whether the dismissal was fair or unfair unless it is shown—
  - (a) that one or more relevant employees of the same employer have not been dismissed, or
  - (b) that a relevant employee has before the expiry of the period of three months beginning with the date of his dismissal been offered re-engagement and that the complainant has not been offered re-engagement.
- (3) For this purpose “relevant employees” means—
  - (a) in relation to a lock-out, employees who were directly interested in the dispute in contemplation or furtherance of which the lock-out occurred, and
  - (b) in relation to a strike or other industrial action, those employees at the establishment of the employer at or from which the complainant works who at the date of his dismissal were taking part in the action.

Nothing in section 237 (dismissal of those taking part in unofficial industrial action) affects the question who are relevant employees for the purposes of this section.

- (4) An offer of re-engagement means an offer (made either by the original employer or by a successor of that employer or an associated employer) to re-engage an employee, either in the job which he held immediately before the date of dismissal or in a different job which would be reasonably suitable in his case.
- (5) In this section “date of dismissal” means—
  - (a) where the employee’s contract of employment was terminated by notice, the date on which the employer’s notice was given, and
  - (b) in any other case, the effective date of termination.

### **239 Supplementary provisions relating to unfair dismissal**

- (1) Sections 237 and 238 (loss of unfair dismissal protection in connection with industrial action) shall be construed as one with Part V of the Employment Protection (Consolidation) Act 1978 (unfair dismissal).
- (2) In relation to a complaint to which section 238 applies, section 67(2) of that Act (time limit for complaint) does not apply, but an industrial tribunal shall not consider the complaint unless it is presented to the tribunal—
  - (a) before the end of the period of six months beginning with the date of the complainant’s dismissal (as defined by section 238(5)), or
  - (b) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period, within such further period as the tribunal considers reasonable.

- (3) Where it is shown that the condition referred to in section 238(2)(b) is fulfilled (discriminatory re-engagement), the references in—
- (a) sections 57 to 61 of the Employment Protection (Consolidation) Act 1978, and
  - (b) sections 152 and 153 of this Act,
- to the reason or principal reason for which the complainant was dismissed shall be read as references to the reason or principal reason he has not been offered re-engagement.

### *Criminal offences*

#### **240 Breach of contract involving injury to persons or property**

- (1) A person commits an offence who wilfully and maliciously breaks a contract of service or hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be—
  - (a) to endanger human life or cause serious bodily injury, or
  - (b) to expose valuable property, whether real or personal, to destruction or serious injury.
- (2) Subsection (1) applies equally whether the offence is committed from malice conceived against the person endangered or injured or, as the case may be, the owner of the property destroyed or injured, or otherwise.
- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 2 on the standard scale or both.
- (4) This section does not apply to seamen.

#### **241 Intimidation or annoyance by violence or otherwise**

- (1) A person commits an offence who, with a view to compelling another person to abstain from doing or to do any act which that person has a legal right to do or abstain from doing, wrongfully and without legal authority—
  - (a) uses violence to or intimidates that person or his wife or children, or injures his property,
  - (b) persistently follows that person about from place to place,
  - (c) hides any tools, clothes or other property owned or used by that person, or deprives him of or hinders him in the use thereof,
  - (d) watches or besets the house or other place where that person resides, works, carries on business or happens to be, or the approach to any such house or place, or
  - (e) follows that person with two or more other persons in a disorderly manner in or through any street or road.
- (2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both.
- (3) A constable may arrest without warrant anyone he reasonably suspects is committing an offence under this section.

## **242 Restriction of offence of conspiracy: England and Wales**

- (1) Where in pursuance of any such agreement as is mentioned in section 1(1) of the Criminal Law Act 1977 (which provides for the offence of conspiracy) the acts in question in relation to an offence are to be done in contemplation or furtherance of a trade dispute, the offence shall be disregarded for the purposes of that subsection if it is a summary offence which is not punishable with imprisonment.
- (2) This section extends to England and Wales only.

## **243 Restriction of offence of conspiracy: Scotland**

- (1) An agreement or combination by two or more persons to do or procure to be done an act in contemplation or furtherance of a trade dispute is not indictable as a conspiracy if that act committed by one person would not be punishable as a crime.
- (2) A crime for this purpose means an offence punishable on indictment, or an offence punishable on summary conviction, and for the commission of which the offender is liable under the statute making the offence punishable to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment.
- (3) Where a person is convicted of any such agreement or combination as is mentioned above to do or procure to be done an act which is punishable only on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months or such longer time as may be prescribed by the statute for the punishment of the act when committed by one person.
- (4) Nothing in this section—
  - (a) exempts from punishment a person guilty of a conspiracy for which a punishment is awarded by an Act of Parliament, or
  - (b) affects the law relating to riot, unlawful assembly, breach of the peace, or sedition or any offence against the State or the Sovereign.
- (5) This section extends to Scotland only.

### *Supplementary*

## **244 Meaning of “trade dispute” in Part V**

- (1) In this Part a “trade dispute” means a dispute between workers and their employer which relates wholly or mainly to one or more of the following—
  - (a) terms and conditions of employment, or the physical conditions in which any workers are required to work;
  - (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;
  - (c) allocation of work or the duties of employment between workers or groups of workers;
  - (d) matters of discipline;
  - (e) a worker’s membership or non-membership of a trade union;
  - (f) facilities for officials of trade unions; and
  - (g) machinery for negotiation or consultation, and other procedures, relating to any of the above matters, including the recognition by employers or

employers' associations of the right of a trade union to represent workers in such negotiation or consultation or in the carrying out of such procedures.

- (2) A dispute between a Minister of the Crown and any workers shall, notwithstanding that he is not the employer of those workers, be treated as a dispute between those workers and their employer if the dispute relates to matters which—
- (a) have been referred for consideration by a joint body on which, by virtue of provision made by or under any enactment, he is represented, or
  - (b) cannot be settled without him exercising a power conferred on him by or under an enactment.
- (3) There is a trade dispute even though it relates to matters occurring outside the United Kingdom, so long as the person or persons whose actions in the United Kingdom are said to be in contemplation or furtherance of a trade dispute relating to matters occurring outside the United Kingdom are likely to be affected in respect of one or more of the matters specified in subsection (1) by the outcome of the dispute.
- (4) An act, threat or demand done or made by one person or organisation against another which, if resisted, would have led to a trade dispute with that other, shall be treated as being done or made in contemplation of a trade dispute with that other, notwithstanding that because that other submits to the act or threat or accedes to the demand no dispute arises.
- (5) In this section—
- “employment” includes any relationship whereby one person personally does work or performs services for another; and
- “worker”, in relation to a dispute with an employer, means—
- (a) a worker employed by that employer; or
  - (b) a person who has ceased to be so employed if his employment was terminated in connection with the dispute or if the termination of his employment was one of the circumstances giving rise to the dispute.

## **245 Crown employees and contracts**

Where a person holds any office or employment under the Crown on terms which do not constitute a contract of employment between that person and the Crown, those terms shall nevertheless be deemed to constitute such a contract for the purposes of—

- (a) the law relating to liability in tort of a person who commits an act which—
  - (i) induces another person to break a contract, interferes with the performance of a contract or induces another person to interfere with its performance, or
  - (ii) consists in a threat that a contract will be broken or its performance interfered with, or that any person will be induced to break a contract or interfere with its performance, and
- (b) the provisions of this or any other Act which refer (whether in relation to contracts generally or only in relation to contracts of employment) to such an act.

## **246 Minor definitions**

In this Part—

“date of the ballot” means, in the case of a ballot in which votes may be cast on more than one day, the last of those days;

“place of work”, in relation to any person who is employed, means the premises occupied by his employer at or from which that person works or, where he does not work at or from any such premises or works at or from more than one set of premises, the premises occupied by his employer with which his employment has the closest connection;

“strike” means any concerted stoppage of work;

“working hours”, in relation to a person, means any time when under his contract of employment, or other contract personally to do work or perform services, he is required to be at work.