



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART VI

#### ADMINISTRATIVE PROVISIONS

##### ACAS

#### 247 ACAS.

- (1) There shall continue to be a body called the Advisory, Conciliation and Arbitration Service (referred to in this Act as ACAS).
- (2) ACAS is a body corporate of which the corporators are the members of its Council.
- (3) Its functions, and those of its officers and servants, shall be performed on behalf of the Crown, but not so as to make it subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise its functions under any enactment.
- (4) For the purposes of civil proceedings arising out of those functions the <sup>M1</sup>Crown Proceedings Act 1947 applies to ACAS as if it were a government department and the <sup>M2</sup>Crown Suits (Scotland) Act 1857 applies to it as if it were a public department.
- (5) Nothing in section 9 of the <sup>M3</sup>Statistics of Trade Act 1947 (restriction on disclosure of information obtained under that Act) shall prevent or penalise the disclosure to ACAS, for the purposes of the exercise of any of its functions, of information obtained under that Act by a government department.
- (6) ACAS shall maintain offices in such of the major centres of employment in Great Britain as it thinks fit for the purposes of discharging its functions under any enactment.

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#### Marginal Citations

- M1** 1947 c. 44.  
**M2** 1857 c. 44.  
**M3** 1947 c. 39.

### 248 The Council of ACAS.

- (1) ACAS shall be directed by a Council which, subject to the following provisions, shall consist of a chairman and nine ordinary members appointed by the Secretary of State.
- (2) Before appointing those ordinary members of the Council, the Secretary of State shall—
  - (a) as to three of them, consult such organisations representing employers as he considers appropriate, and
  - (b) as to three of them, consult such organisations representing workers as he considers appropriate.
- (3) The Secretary of State may, if he thinks fit, appoint a further two ordinary members of the Council (who shall be appointed so as to take office at the same time); and before making those appointments he shall—
  - (a) as to one of them, consult such organisations representing employers as he considers appropriate, and
  - (b) as to one of them, consult such organisations representing workers as he considers appropriate.
- (4) The Secretary of State may appoint up to three deputy chairman who may be appointed from the ordinary members, or in addition to those members.
- (5) The Council shall determine its own procedure, including the quorum necessary for its meetings.
- (6) If the Secretary of State has not appointed a deputy chairman, the Council may choose a member to act as chairman in the absence or incapacity of the chairman.
- (7) The validity of proceedings of the Council is not affected by any vacancy among the members of the Council or by any defect in the appointment of any of them.

### 249 Terms of appointment of members of Council.

- (1) The members of the Council shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.
- (2) <sup>F1</sup> . . .  
 Appointment as [<sup>F2</sup>chairman, or as] deputy chairman, or as an ordinary member of the Council, may be a full-time or part-time appointment; and the Secretary of State may, with the consent of the member concerned, vary the terms of his appointment as to whether his appointment is full-time or part-time.
- (3) A person shall not be appointed to the Council for a term exceeding five years, but previous membership does not affect eligibility for re-appointment.

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- (4) A member may at any time resign his membership, and the chairman or a deputy chairman may at any time resign his office as such, by notice in writing to the Secretary of State.

A deputy chairman appointed in addition to the ordinary members of the Council shall on resigning his office as deputy chairman cease to be a member of the Council.

- (5) If the Secretary of State is satisfied that a member—
- (a) has been absent from meetings of the Council for a period longer than six consecutive months without the permission of the Council, or
  - (b) has become bankrupt or [<sup>F3</sup>has had a debt relief order (under Part 7A of the Insolvency Act 1986) made in respect of him or has] made an arrangement with his creditors (or, in Scotland, has had his estate sequestrated or has made a trust deed for his creditors or has made and had accepted a composition contract), or
  - (c) is incapacitated by physical or mental illness, or
  - (d) is otherwise unable or unfit to discharge the functions of a member,

the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as he thinks fit, whereupon the office shall become vacant.

If the chairman or a deputy chairman ceases to be a member of the Council, he shall also cease to be chairman or, as the case may be, a deputy chairman.

#### Textual Amendments

- F1** Words in s. 249(2) repealed (30.8.1993) by 1993 c. 19, ss. 43(3), 51, **Sch.10**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F2** Words in s. 249(2) inserted (30.8.1993) by 1993 c. 19, s. 43(3); S.I. 1993/1908, art. 2(1), **Sch.1**
- F3** Words in s. 249(5)(b) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 28(2)** (with art. 5)

## 250 Remuneration, &c. of members of Council.

- (1) ACAS shall pay to the members of its Council such remuneration and travelling and other allowances as may be determined by the Secretary of State.
- (2) The Secretary of State may pay, or make provision for payment, to or in respect of a member of the Council such pension, allowance or gratuity on death or retirement as he may determine.
- (3) Where a person ceases to be the holder of the Council otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, he may make him a payment of such amount he may determine.
- (4) The approval of the Treasury is required for any determination by the Secretary of State under this section.

#### Modifications etc. (not altering text)

- C1** S. 250: transfer of functions (1.4.1995) by virtue of S.I. 1995/269, art. 3, **Sch. para. 21**

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## **251 Secretary, officers and staff of ACAS.**

- (1) ACAS may, with the approval of the Secretary of State, appoint a secretary.

The consent of the Secretary of State is required as to his terms and conditions of service.

- (2) ACAS may appoint such other officers and staff as it may determine.

The consent of the Secretary of State is required as to their numbers, manner of appointment and terms and conditions of service.

- (3) The Secretary of State shall not give his consent under subsection (1) or (2) without the approval of the Treasury.

- (4) ACAS shall pay to the Treasury, at such times in each accounting year as may be determined by the Treasury, sums of such amounts as may be so determined as being equivalent to the increase in that year of such liabilities of his as are attributable to the provision of pensions, allowances or gratuities to or in respect of persons who are or have been in the service of ACAS in so far as that increase results from the service of those persons during that accounting year and to the expense to be incurred in administering those pensions, allowances or gratuities.

- (5) The fixing of the common seal of ACAS shall be authenticated by the signature of the secretary of ACAS or some other person authorised by ACAS to act for that purpose.

A document purporting to be duly executed under the seal of ACAS shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

## **[<sup>F4</sup>251A Fees for exercise of functions by ACAS.**

- (1) ACAS may, in any case in which it thinks it appropriate to do so, but subject to any directions under subsection (2) below, charge a fee for exercising a function in relation to any person.

- (2) The Secretary of State may direct ACAS to charge fees, in accordance with the direction, for exercising any function specified in the direction, but the Secretary of State shall not give a direction under this subsection without consulting ACAS.

- (3) A direction under subsection (2) above may require ACAS to charge fees in respect of the exercise of a function only in specified descriptions of case.

- (4) A direction under subsection (2) above shall specify whether fees are to be charged in respect of the exercise of any specified function—

- (a) at the full economic cost level, or
- (b) at a level less than the full economic cost but not less than a specified proportion or percentage of the full economic cost.

- (5) Where a direction requires fees to be charged at the full economic cost level ACAS shall fix the fee for the case at an amount estimated to be sufficient to cover the administrative costs of ACAS of exercising the function including an appropriate sum in respect of general staff costs and overheads.

- (6) Where a direction requires fees to be charged at a level less than the full economic cost ACAS shall fix the fee for the case at such amount, not being less than the proportion or percentage of the full economic cost specified under subsection (4)(b) above, as

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it thinks appropriate (computing that cost in the same way as under subsection (5) above).

- (7) No liability to pay a fee charged under this section shall arise on the part of any person unless ACAS has notified that person that a fee may or will be charged.
- (8) For the purposes of this section—
- (a) a function is exercised in relation to a person who avails himself of the benefit of its exercise, whether or not he requested its exercise and whether the function is such as to be exercisable in relation to particular persons only or in relation to persons generally; and
  - (b) where a function is exercised in relation to two or more persons the fee chargeable for its exercise shall be apportioned among them as ACAS thinks appropriate.]

#### Textual Amendments

**F4** S. 251A inserted (30.8.1993) by 1993 c. 19, s.44; S.I. 1993/1908, art. 2(1), Sch.1

### [<sup>F5</sup>251B Prohibition on disclosure of information

- (1) Information held by ACAS shall not be disclosed if the information—
- (a) relates to a worker, an employer of a worker or a trade union (a “relevant person”), and
  - (b) is held by ACAS in connection with the provision of a service by ACAS or its officers.

This is subject to subsection (2).

- (2) Subsection (1) does not prohibit the disclosure of information if—
- (a) the disclosure is made for the purpose of enabling or assisting ACAS to carry out any of its functions under this Act,
  - (b) the disclosure is made for the purpose of enabling or assisting an officer of ACAS to carry out the functions of a conciliation officer under any enactment,
  - (c) the disclosure is made for the purpose of enabling or assisting—
    - (i) a person appointed by ACAS under section 210(2), or
    - (ii) an arbitrator or arbiter appointed by ACAS under any enactment, to carry out functions specified in the appointment,
  - <sup>F6</sup>(ca) [ the disclosure is made for the purpose of enabling or assisting an enforcement officer within the meaning of Part 2A of the Employment Tribunals Act 1996 to carry out the officer's functions under that Part;]
  - (d) the disclosure is made for the purposes of a criminal investigation or criminal proceedings (whether or not within the United Kingdom),
  - (e) the disclosure is made in order to comply with a court order,
  - (f) the disclosure is made in a manner that ensures that no relevant person to whom the information relates can be identified, or
  - (g) the disclosure is made with the consent of each relevant person to whom the information relates.
- (3) Subsection (2) does not authorise the making of a disclosure which contravenes [<sup>F7</sup>the data protection legislation].

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- (4) A person who discloses information in contravention of this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) Proceedings in England and Wales for an offence under this section may be instituted only with the consent of the Director of Public Prosecutions.
- (6) For the purposes of this section information held by—
- (a) a person appointed by ACAS under section 210(2) in connection with functions specified in the appointment, or
  - (b) an arbitrator or arbiter appointed by ACAS under any enactment in connection with functions specified in the appointment,
- is information that is held by ACAS in connection with the provision of a service by ACAS.]

[<sup>F8</sup>(7) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).]

#### Textual Amendments

- F5** S. 251B inserted (25.4.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 10, 103(1) (with s. 24(1))
- F6** S. 251B(2)(ca) inserted (6.4.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), ss. 150(7), 164(1) (with s. 150(8)); S.I. 2016/321, reg. 3(d)
- F7** Words in s. 251B(3) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 40(2) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F8** S. 251B(7) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 40(3) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

## 252 General financial provisions.

- (1) The Secretary of State shall pay to ACAS such sums as are approved by the Treasury and as he considers appropriate for the purpose of enabling ACAS to perform its functions.
- (2) ACAS may pay to—
- (a) persons appointed under section 210(2) (conciliation) who are not officers or servants of ACAS, and
  - (b) arbitrators or arbiters appointed by ACAS under any enactment,
- such fees and travelling and other allowances as may be determined by the Secretary of State with the approval of the Treasury.

## 253 Annual report and accounts.

- (1) ACAS shall as soon as practicable after the end of each [<sup>F9</sup>financial year] make a report to the Secretary of State on its activities during that year.

The Secretary of State shall lay a copy of the report before each House of Parliament and arrange for it to be published.

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- (2) ACAS shall keep proper accounts and proper records in relation to the accounts and shall prepare in respect of each financial year a statement of accounts, in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (3) ACAS shall not later than 30th November following the end of the financial year to which the statement relates, send copies of the statement to the Secretary of State and to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General shall examine, certify and report on each such statement and shall lay a copy of the statement and of his report before each House of Parliament.

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#### Textual Amendments

- F9** Words in s. 253(1) substituted (25.10.1999) by 1999 c. 26, s. 27(1); S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. 1** (with **Sch. 3 para. 3**)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212A(1)(zb) inserted by [2023 c. 46 Sch. para. 1](#)