



Industrial Tribunals Act 1996

1996 CHAPTER 17

PART I

INDUSTRIAL TRIBUNALS

Introductory

1 Industrial tribunals

- (1) The Secretary of State may by regulations make provision for the establishment of tribunals to be known as industrial tribunals.
- (2) Regulations made wholly or partly under section 128(1) of the Employment Protection (Consolidation) Act 1978 and in force immediately before this Act comes into force shall, so far as made under that provision, continue to have effect (until revoked) as if made under subsection (1); and the tribunals established in pursuance of such regulations shall continue to be known as industrial tribunals.

Jurisdiction

2 Enactments conferring jurisdiction on industrial tribunals

Industrial tribunals shall exercise the jurisdiction conferred on them by or by virtue of this Act or any other Act, whether passed before or after this Act.

3 Power to confer further jurisdiction on industrial tribunals

- (1) The appropriate Minister may by order provide that proceedings in respect of—
 - (a) any claim to which this section applies, or
 - (b) any claim to which this section applies and which is of a description specified in the order,

may, subject to such exceptions (if any) as may be so specified, be brought before an industrial tribunal.

- (2) Subject to subsection (3), this section applies to—
- (a) a claim for damages for breach of a contract of employment or other contract connected with employment,
 - (b) a claim for a sum due under such a contract, and
 - (c) a claim for the recovery of a sum in pursuance of any enactment relating to the terms or performance of such a contract,
- if the claim is such that a court in England and Wales or Scotland would under the law for the time being in force have jurisdiction to hear and determine an action in respect of the claim.
- (3) This section does not apply to a claim for damages, or for a sum due, in respect of personal injuries.
- (4) Any jurisdiction conferred on an industrial tribunal by virtue of this section in respect of any claim is exercisable concurrently with any court in England and Wales or in Scotland which has jurisdiction to hear and determine an action in respect of the claim.
- (5) In this section—
- “appropriate Minister”, as respects a claim in respect of which an action could be heard and determined by a court in England and Wales, means the Lord Chancellor and, as respects a claim in respect of which an action could be heard and determined by a court in Scotland, means the Lord Advocate, and
 - “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.
- (6) In this section a reference to breach of a contract includes a reference to breach of—
- (a) a term implied in a contract by or under any enactment or otherwise,
 - (b) a term of a contract as modified by or under any enactment or otherwise, and
 - (c) a term which, although not contained in a contract, is incorporated in the contract by another term of the contract.

Membership etc.

4 Composition of a tribunal

- (1) Subject to the following provisions of this section, proceedings before an industrial tribunal shall be heard by—
- (a) the person who, in accordance with regulations made under section 1(1), is the chairman, and
 - (b) two other members, or (with the consent of the parties) one other member, selected as the other members (or member) in accordance with regulations so made.
- (2) Subject to subsection (5), the proceedings specified in subsection (3) shall be heard by the person mentioned in subsection (1)(a) alone.
- (3) The proceedings referred to in subsection (2) are—
- (a) proceedings on an application under section 161, 165 or 166 of the Trade Union and Labour Relations (Consolidation) Act 1992,

- (b) proceedings on a complaint under section 126 of the Pension Schemes Act 1993,
 - (c) proceedings on a complaint under section 23 or 188 of the Employment Rights Act 1996 or on an application under section 128, 131 or 132 of that Act,
 - (d) proceedings in respect of which an industrial tribunal has jurisdiction by virtue of section 3 of this Act,
 - (e) proceedings in which the parties have given their written consent to the proceedings being heard in accordance with subsection (2) (whether or not they have subsequently withdrawn it),
 - (f) proceedings in which the person bringing the proceedings has given written notice withdrawing the case, and
 - (g) proceedings in which the person (or, where more than one, each of the persons) against whom the proceedings are brought does not, or has ceased to, contest the case.
- (4) The Secretary of State may by order amend the provisions of subsection (3).
- (5) Proceedings specified in subsection (3) shall be heard in accordance with subsection (1) if a person who, in accordance with regulations made under section 1(1), may be the chairman of an industrial tribunal, having regard to—
- (a) whether there is a likelihood of a dispute arising on the facts which makes it desirable for the proceedings to be heard in accordance with subsection (1),
 - (b) whether there is a likelihood of an issue of law arising which would make it desirable for the proceedings to be heard in accordance with subsection (2),
 - (c) any views of any of the parties as to whether or not the proceedings ought to be heard in accordance with either of those subsections, and
 - (d) whether there are other proceedings which might be heard concurrently but which are not proceedings specified in subsection (3),
- decides at any stage of the proceedings that the proceedings are to be heard in accordance with subsection (1).
- (6) Where (in accordance with the following provisions of this Part) the Secretary of State makes industrial tribunal procedure regulations, the regulations may provide that, in such circumstances as the regulations may specify, any act required or authorised by the regulations to be done by an industrial tribunal may be done by the person mentioned in subsection (1)(a) alone.
- (7) Where a Minister of the Crown so directs in relation to any proceedings on grounds of national security—
- (a) the proceedings shall be heard and determined, and
 - (b) any act required or authorised by industrial tribunal procedure regulations to be done by an industrial tribunal in relation to the proceedings shall be done, by the President of the Industrial Tribunals (England and Wales) appointed in accordance with regulations made under section 1(1), or by the President of the Industrial Tribunals (Scotland) so appointed, alone.

5 Remuneration, fees and allowances

- (1) The Secretary of State may pay to—
- (a) the President of the Industrial Tribunals (England and Wales),
 - (b) the President of the Industrial Tribunals (Scotland), and

- (c) any person who is a member on a full-time basis of a panel of chairmen of tribunals which is appointed in accordance with regulations made under section 1(1),

such remuneration as he may with the consent of the Treasury determine.

- (2) The Secretary of State may pay to—

- (a) members of industrial tribunals,
- (b) any assessors appointed for the purposes of proceedings before industrial tribunals, and
- (c) any persons required for the purposes of section 2A(1)(b) of the Equal Pay Act 1970 to prepare reports,

such fees and allowances as he may with the consent of the Treasury determine.

- (3) The Secretary of State may pay to any other persons such allowances as he may with the consent of the Treasury determine for the purposes of, or in connection with, their attendance at industrial tribunals.

Procedure

6 Conduct of hearings

- (1) A person may appear before an industrial tribunal in person or be represented by—
 - (a) counsel or a solicitor,
 - (b) a representative of a trade union or an employers' association, or
 - (c) any other person whom he desires to represent him.
- (2) The Arbitration Act 1950 does not apply to any proceedings before an industrial tribunal.

7 Industrial tribunal procedure regulations

- (1) The Secretary of State may by regulations (“industrial tribunal procedure regulations”) make such provision as appears to him to be necessary or expedient with respect to proceedings before industrial tribunals.
- (2) Proceedings before industrial tribunals shall be instituted in accordance with industrial tribunal procedure regulations.
- (3) Industrial tribunal procedure regulations may, in particular, include provision—
 - (a) for determining by which tribunal any proceedings are to be determined,
 - (b) for enabling an industrial tribunal to hear and determine proceedings brought by virtue of section 3 concurrently with proceedings brought before the tribunal otherwise than by virtue of that section,
 - (c) for treating the Secretary of State (either generally or in such circumstances as may be prescribed by the regulations) as a party to any proceedings before an industrial tribunal (where he would not otherwise be a party to them) and entitling him to appear and to be heard accordingly,
 - (d) for requiring persons to attend to give evidence and produce documents and for authorising the administration of oaths to witnesses,
 - (e) for enabling an industrial tribunal, on the application of any party to the proceedings before it or of its own motion, to order—

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

- (i) in England and Wales, such discovery or inspection of documents, or the furnishing of such further particulars, as might be ordered by a county court on application by a party to proceedings before it, or
 - (ii) in Scotland, such recovery or inspection of documents as might be ordered by a sheriff,
 - (f) for prescribing the procedure to be followed in any proceedings before an industrial tribunal, including provision—
 - (i) as to the persons entitled to appear and to be heard on behalf of parties to such proceedings, and
 - (ii) 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,
 - (g) for the appointment of one or more assessors for the purposes of any proceedings before an industrial tribunal, where the proceedings are brought under an enactment which provides for one or more assessors to be appointed,
 - (h) for authorising an industrial tribunal to require persons to furnish information and produce documents to a person required for the purposes of section 2A(1)(b) of the Equal Pay Act 1970 to prepare a report, and
 - (j) for the registration and proof of decisions, orders and awards of industrial tribunals.
- (4) A person who without reasonable excuse fails to comply with—
 - (a) any requirement imposed by virtue of subsection (3)(d) or (h), or
 - (b) any requirement with respect to the discovery, recovery or inspection of documents imposed by virtue of subsection (3)(e),is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Subject to any regulations under section 11(1)(a), industrial tribunal procedure regulations may include provision authorising or requiring an industrial tribunal, in circumstances specified in the regulations, to send notice or a copy of—
 - (a) any document specified in the regulations which relates to any proceedings before the tribunal, or
 - (b) any decision, order or award of the tribunal,to any government department or other person or body so specified.
- (6) Where in accordance with industrial tribunal procedure regulations an industrial tribunal determines in the same proceedings—
 - (a) a complaint presented under section 111 of the Employment Rights Act 1996, and
 - (b) a question referred under section 163 of that Act,subsection (2) of that section has no effect for the purposes of the proceedings in so far as they relate to the complaint under section 111.

8 Procedure in contract cases

- (1) Where in proceedings brought by virtue of section 3 an industrial tribunal finds that the whole or part of a sum claimed in the proceedings is due, the tribunal shall order the respondent to the proceedings to pay the amount which it finds due.

- (2) An order under section 3 may provide that an industrial tribunal shall not in proceedings in respect of a claim, or a number of claims relating to the same contract, order the payment of an amount exceeding such sum as may be specified in the order as the maximum amount which an industrial tribunal may order to be paid in relation to a claim or in relation to a contract.
- (3) An order under section 3 may include provisions—
 - (a) as to the manner in which and time within which proceedings are to be brought by virtue of that section, and
 - (b) modifying any other enactment.
- (4) An order under that section may make different provision in relation to proceedings in respect of different descriptions of claims.

9 Pre-hearing reviews and preliminary matters

- (1) Industrial tribunal procedure regulations may include provision—
 - (a) for authorising the carrying-out by an industrial tribunal of a preliminary consideration of any proceedings before it (a “pre-hearing review”), and
 - (b) for enabling such powers to be exercised in connection with a pre-hearing review as may be prescribed by the regulations.
- (2) Such regulations may in particular include provision—
 - (a) for authorising any tribunal carrying out a pre-hearing review under the regulations to make, in circumstances specified in the regulations, an order requiring a party to the proceedings in question, if he wishes to continue to participate in those proceedings, to pay a deposit of an amount not exceeding £150, and
 - (b) for prescribing—
 - (i) the manner in which the amount of any such deposit is to be determined in any particular case,
 - (ii) the consequences of non-payment of any such deposit, and
 - (iii) the circumstances in which any such deposit, or any part of it, may be refunded to the party who paid it or be paid over to another party to the proceedings.
- (3) The Secretary of State may from time to time by order substitute for the sum specified in subsection (2)(a) such other sum as is specified in the order.
- (4) Industrial tribunal procedure regulations may also include provision for authorising an industrial tribunal to hear and determine any issue relating to the entitlement of any party to proceedings to bring or contest the proceedings in advance of the hearing and determination of the proceedings by that or any other industrial tribunal.

10 National security etc

- (1) A Minister of the Crown may on grounds of national security direct an industrial tribunal to sit in private when hearing or determining any proceedings specified in the direction.
- (2) Industrial tribunal procedure regulations may enable an industrial tribunal to sit in private for the purpose of—

- (a) hearing evidence which in the opinion of the tribunal 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) hearing evidence from any person which in the opinion of the tribunal is likely to consist of—
 - (i) information which he could not disclose without contravening a prohibition imposed by or by virtue of any enactment,
 - (ii) information which has been communicated to him in confidence or which he has otherwise obtained in consequence of the confidence reposed in him by another person, or
 - (iii) information the disclosure of which would, for reasons other than its effect on negotiations with respect to any of the matters mentioned in section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992, cause substantial injury to any undertaking of his or in which he works.
- (3) The reference in subsection (2)(b)(iii) to any undertaking of a person or in which he works shall be construed—
- (a) in relation to a person in Crown employment, as a reference to the national interest,
 - (b) in relation to a person who is a relevant member of the House of Lords staff, as a reference to the national interest or (if the case so requires) the interests of the House of Lords, and
 - (c) in relation to a person who is a relevant member of the House of Commons staff, as a reference to the national interest or (if the case so requires) the interests of the House of Commons.
- (4) If on a complaint under—
- (a) section 146 of the Trade Union and Labour Relations (Consolidation) Act 1992, or
 - (b) section 111 of the Employment Rights Act 1996,
- it is shown that the action complained of was taken for the purpose of safeguarding national security, the industrial tribunal shall dismiss the complaint.
- (5) Except where the complaint is that a dismissal is unfair by virtue of—
- (a) section 99(1) to (3), 100 or 103 of the Employment Rights Act 1996, or
 - (b) subsection (1) of section 105 of that Act by reason of the application of subsection (2), (3) or (6) of that section,
- a certificate purporting to be signed by or on behalf of a Minister of the Crown and certifying that the action specified in the certificate was taken for the purpose of safeguarding national security is for the purposes of subsection (4) of this section conclusive evidence of that fact.
- (6) The reference in subsection (5) to “dismissal” shall be construed—
- (a) in relation to a person in Crown employment, as a reference to the termination of Crown employment, and
 - (b) in relation to a person who is a relevant member of the House of Commons staff, as a reference to the termination of his employment as such.

11 Restriction of publicity in cases involving sexual misconduct

- (1) Industrial tribunal procedure regulations may include provision—
 - (a) for cases involving allegations of the commission of sexual offences, for securing that the registration or other making available of documents or decisions shall be so effected as to prevent the identification of any person affected by or making the allegation, and
 - (b) for cases involving allegations of sexual misconduct, enabling an industrial tribunal, on the application of any party to proceedings before it or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the decision of the tribunal.
- (2) If any identifying matter is published or included in a relevant programme in contravention of a restricted reporting order—
 - (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,
 - (b) in the case of publication in any other form, the person publishing the matter, and
 - (c) in the case of matter included in a relevant programme—
 - (i) any body corporate engaged in providing the service in which the programme is included, and
 - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) Where a person is charged with an offence under subsection (2) it is a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or included, the matter in question.
- (4) Where an offence under subsection (2) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person purporting to act in any such capacity,

he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) In relation to a body corporate whose affairs are managed by its members “director”, in subsection (4), means a member of the body corporate.
- (6) In this section—

“identifying matter”, in relation to a person, means any matter likely to lead members of the public to identify him as a person affected by, or as the person making, the allegation,

“relevant programme” has the same meaning as in the Sexual Offences (Amendment) Act 1992,

“restricted reporting order” means an order—

 - (a) made in exercise of a power conferred by regulations made by virtue of this section, and

- (b) prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain,

“sexual misconduct” means the commission of a sexual offence, sexual harassment or other adverse conduct (of whatever nature) related to sex, and conduct is related to sex whether the relationship with sex lies in the character of the conduct or in its having reference to the sex or sexual orientation of the person at whom the conduct is directed,

“sexual offence” means any offence to which section 4 of the Sexual Offences (Amendment) Act 1976, the Sexual Offences (Amendment) Act 1992 or section 274(2) of the Criminal Procedure (Scotland) Act 1995 applies (offences under the Sexual Offences Act 1956, Part I of the Criminal Law (Consolidation) (Scotland) Act 1995 and certain other enactments), and

“written publication” has the same meaning as in the Sexual Offences (Amendment) Act 1992.

12 Restriction of publicity in disability cases

- (1) This section applies to proceedings on a complaint under section 8 of the Disability Discrimination Act 1995 in which evidence of a personal nature is likely to be heard by the industrial tribunal hearing the complaint.
- (2) Industrial tribunal procedure regulations may include provision in relation to proceedings to which this section applies for—
 - (a) enabling an industrial tribunal, on the application of the complainant or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the decision of the tribunal, and
 - (b) where a restricted reporting order is made in relation to a complaint which is being dealt with by the tribunal together with any other proceedings, enabling the tribunal to direct that the order is to apply also in relation to those other proceedings or such part of them as the tribunal may direct.
- (3) If any identifying matter is published or included in a relevant programme in contravention of a restricted reporting order—
 - (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,
 - (b) in the case of publication in any other form, the person publishing the matter, and
 - (c) in the case of matter included in a relevant programme—
 - (i) any body corporate engaged in providing the service in which the programme is included, and
 - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper,shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) Where a person is charged with an offence under subsection (3), it is a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or included, the matter in question.

- (5) Where an offence under subsection (3) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person purporting to act in any such capacity,
- he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In relation to a body corporate whose affairs are managed by its members “director”, in subsection (5), means a member of the body corporate.
- (7) In this section—
- “evidence of a personal nature” means any evidence of a medical, or other intimate, nature which might reasonably be assumed to be likely to cause significant embarrassment to the complainant if reported,
 - “identifying matter” means any matter likely to lead members of the public to identify the complainant or such other persons (if any) as may be named in the order,
 - “promulgation” has such meaning as may be prescribed by regulations made by virtue of this section,
 - “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990,
 - “restricted reporting order” means an order—
 - (a) made in exercise of a power conferred by regulations made by virtue of this section, and
 - (b) prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain, and
 - “written publication” includes a film, a sound track and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.

13 Costs and expenses

- (1) Industrial tribunal procedure regulations may include provision—
- (a) for the award of costs or expenses, including any allowances payable under section 5(2)(c) or (3), and
 - (b) 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 a county court).
- (2) In relation to proceedings under section 111 of the Employment Rights Act 1996—
- (a) where the employee has expressed a wish to be reinstated or re-engaged which has been communicated to the employer at least seven days before the hearing of the complaint, or
 - (b) where the proceedings arise out of the employer’s failure to permit the employee to return to work after an absence due to pregnancy or childbirth,
- industrial tribunal procedure regulations shall include provision for requiring the employer to pay the costs or expenses of any postponement or adjournment of the hearing caused by his failure, without a special reason, to adduce reasonable evidence

as to the availability of the job from which the complainant was dismissed, or which she held before her absence, or of comparable or suitable employment.

14 Interest

- (1) The Secretary of State may by order made with the approval of the Treasury provide that sums payable in pursuance of decisions of industrial tribunals shall carry interest at such rate and between such times as may be prescribed by the order.
- (2) Any interest due by virtue of such an order shall be recoverable as a sum payable in pursuance of the decision.
- (3) The power conferred by subsection (1) includes power—
 - (a) to specify cases or circumstances in which interest is not payable,
 - (b) to provide that interest is payable only on sums exceeding a specified amount or falling between specified amounts,
 - (c) to make provision for the manner in which and the periods by reference to which interest is to be calculated and paid,
 - (d) to provide that any enactment—
 - (i) does or does not apply in relation to interest payable by virtue of subsection (1), or
 - (ii) applies to it with such modifications as may be specified in the order,
 - (e) to make provision for cases where sums are payable in pursuance of decisions or awards made on appeal from industrial tribunals,
 - (f) to make such incidental or supplemental provision as the Secretary of State considers necessary.
- (4) In particular, an order under subsection (1) may provide that the rate of interest shall be the rate specified in section 17 of the Judgments Act 1838 as that enactment has effect from time to time.

15 Enforcement

- (1) Any sum payable in pursuance of a decision of an industrial tribunal in England and Wales which has been registered in accordance with industrial tribunal procedure 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 court.
- (2) Any order for the payment of any sum made by an industrial tribunal in Scotland (or any copy of such an order certified by the Secretary of the Tribunals) may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) In this section a reference to a decision or order of an industrial tribunal—
 - (a) does not include a decision or order which, on being reviewed, has been revoked by the tribunal, and
 - (b) in relation to a decision or order which on being reviewed, has been varied by the tribunal, shall be construed as a reference to the decision or order as so varied.

*Recoupment of social security benefits***16 Power to provide for recoupment of benefits**

- (1) This section applies to payments which are the subject of proceedings before industrial tribunals and which are—
 - (a) payments of wages or compensation for loss of wages,
 - (b) payments by employers to employees under sections 146 to 151, sections 168 to 173 or section 192 of the Trade Union and Labour Relations (Consolidation) Act 1992,
 - (c) payments by employers to employees under—
 - (i) Part III, V, VI or VII,
 - (ii) section 93, or
 - (iii) Part X,
 of the Employment Rights Act 1996, or
 - (d) payments by employers to employees of a nature similar to, or for a purpose corresponding to the purpose of, payments within paragraph (b) or (c),
 and to payments of remuneration under a protective award under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (2) The Secretary of State may by regulations make with respect to payments to which this section applies provision for any or all of the purposes specified in subsection (3).
- (3) The purposes referred to in subsection (2) are—
 - (a) enabling the Secretary of State to recover from an employer, by way of total or partial recoupment of jobseeker's allowance or income support—
 - (i) a sum not exceeding the amount of the prescribed element of the monetary award, or
 - (ii) in the case of a protective award, the amount of the remuneration,
 - (b) requiring or authorising an industrial tribunal to order the payment of such a sum, by way of total or partial recoupment of either benefit, to the Secretary of State instead of to an employee, and
 - (c) requiring an industrial tribunal to order the payment to an employee of only the excess of the prescribed element of the monetary award over the amount of any jobseeker's allowance or income support shown to the tribunal to have been paid to the employee and enabling the Secretary of State to recover from the employer, by way of total or partial recoupment of the benefit, a sum not exceeding that amount.
- (4) Regulations under this section may be framed—
 - (a) so as to apply to all payments to which this section applies or to one or more classes of those payments, and
 - (b) so as to apply to both jobseeker's allowance and income support, or to only jobseeker's allowance or income support.
- (5) Regulations under this section may—
 - (a) confer powers and impose duties on industrial tribunals or adjudication officers or other persons,
 - (b) impose on an employer to whom a monetary award or protective award relates a duty—
 - (i) to furnish particulars connected with the award, and

- (ii) to suspend payments in pursuance of the award during any period prescribed by the regulations,
 - (c) provide for an employer who pays a sum to the Secretary of State in pursuance of this section to be relieved from any liability to pay the sum to another person,
 - (d) confer on an employee a right of appeal to a social security appeal tribunal against any decision of an adjudication officer as to the total or partial recoupment of an income-based jobseeker's allowance or of income support in pursuance of the regulations, and
 - (e) provide for the proof in proceedings before industrial tribunals (whether by certificate or in any other manner) of any amount of jobseeker's allowance or income support paid to an employee.
- (6) Regulations under this section may make different provision for different cases.

17 Recoupment: further provisions

- (1) Where in pursuance of any regulations under section 16 a sum has been recovered by or paid to the Secretary of State by way of total or partial recoupment of jobseeker's allowance or income support—
- (a) no sum shall be recoverable under Part III or V of the Social Security Administration Act 1992, and
 - (b) no abatement, payment or reduction shall be made by reference to the jobseeker's allowance or income support recouped.
- (2) Any amount found to have been duly recovered by or paid to the Secretary of State in pursuance of regulations under section 16 by way of total or partial recoupment of jobseeker's allowance shall be paid into the National Insurance Fund.
- (3) In section 16—
- “monetary award” means the amount which is awarded, or ordered to be paid, to the employee by the tribunal or would be so awarded or ordered apart from any provision of regulations under that section, and
 - “the prescribed element”, in relation to any monetary award, means so much of that award as is attributable to such matters as may be prescribed by regulations under that section.
- (4) In section 16 “income-based jobseeker's allowance” has the same meaning as in the Jobseekers Act 1995.

Conciliation

18 Conciliation

- (1) This section applies in the case of industrial tribunal proceedings and claims which could be the subject of industrial tribunal proceedings—
- (a) under—
 - (i) section 2(1) of the Equal Pay Act 1970,
 - (ii) section 63 of the Sex Discrimination Act 1975, or
 - (iii) section 54 of the Race Relations Act 1976,

- (b) arising out of a contravention, or alleged contravention, of section 64, 68, 137, 138, 146, 168, 169, 170, 174, 188 or 190 of the Trade Union and Labour Relations (Consolidation) Act 1992,
 - (c) under section 8 of the Disability Discrimination Act 1995,
 - (d) arising out of a contravention, or alleged contravention, of section 8, 13, 15, 18(1), 21(1), 28 or 92, or of Part V, VI, VII or X, of the Employment Rights Act 1996,
 - (e) which are proceedings in respect of which an industrial tribunal has jurisdiction by virtue of section 3 of this Act, or
 - (f) arising out of a contravention, or alleged contravention, of a provision specified by an order under subsection (8)(b) as a provision to which this paragraph applies.
- (2) Where an application has been presented to an industrial tribunal, and a copy of it has been sent to a conciliation officer, it is the duty of the conciliation officer—
 - (a) if he is requested to do so by the person by whom and the person against whom the proceedings are brought, 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 proceedings without their being determined by an industrial tribunal.
- (3) Where at any time—
 - (a) a person claims that action has been taken in respect of which proceedings could be brought by him before an industrial tribunal, but
 - (b) before any application relating to that action has been presented by him a request is made to a conciliation officer (whether by that person or by the person against whom the proceedings could be instituted) to make his services available to them,
 the conciliation officer shall act in accordance with subsection (2) as if an application had been presented to an industrial tribunal.
- (4) Where a person who has presented a complaint to an industrial tribunal under section 111 of the Employment Rights Act 1996 has ceased to be employed by the employer against whom the complaint was made, the conciliation officer shall (for the purpose of promoting a settlement of the complaint in accordance with subsection (2)) in particular—
 - (a) seek to promote the reinstatement or re-engagement of the complainant by the employer, or by a successor of the employer or by an associated employer, on terms appearing to the conciliation officer to be equitable, or
 - (b) where the complainant does not wish to be reinstated or re-engaged, or where reinstatement or re-engagement is not practicable, and the parties desire the conciliation officer to act, seek to promote agreement between them as to a sum by way of compensation to be paid by the employer to the complainant.
- (5) Where at any time—
 - (a) a person claims that action has been taken in respect of which a complaint could be presented by him to an industrial tribunal under section 111 of the Employment Rights Act 1996, but

- (b) before any complaint relating to that action has been presented by him a request is made to a conciliation officer (whether by that person or by the employer) to make his services available to them,
the conciliation officer shall act in accordance with subsection (4) as if a complaint had been presented to an industrial tribunal under section 111.
- (6) In proceeding under this section a conciliation officer shall, where appropriate, have regard to the desirability of encouraging the use of other procedures available for the settlement of grievances.
- (7) 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 an industrial tribunal, except with the consent of the person who communicated it to that officer.
- (8) The Secretary of State may by order—
 - (a) direct that further provisions of the Employment Rights Act 1996 be added to the list in subsection (1)(d), or
 - (b) specify a provision of any other Act as a provision to which subsection (1)(f) applies.

19 Conciliation procedure

Industrial tribunal procedure regulations shall include in relation to industrial tribunal proceedings in the case of which any enactment makes provision for conciliation—

- (a) provisions requiring a copy of the application by which the proceedings are instituted, and a copy of any notice relating to it which is lodged by or on behalf of the person against whom the proceedings are brought, to be sent to a conciliation officer,
- (b) provisions securing that the applicant and the person against whom the proceedings are brought are notified that the services of a conciliation officer are available to them, and
- (c) provisions postponing the hearing of any such proceedings for such period as may be determined in accordance with the regulations for the purpose of giving an opportunity for the proceedings to be settled by way of conciliation and withdrawn.