

Changes to legislation: There are currently no known outstanding effects for the Employment Rights (Dispute Resolution) Act 1998, Paragraph 9. (See end of Document for details)

SCHEDULES

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

Extent Information

E1 For the extent of Sch. 1, see s. 16(1)(3)

The Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)

- 9 (1) Section 288 of that Act (which restricts contracting out of the provisions of the Act) is amended as follows.
- (2) In subsection (2B)(b) (which provides that a compromise agreement must relate to the particular complaint), for “complaint” substitute “proceedings”.
- (3) For subsections (4) and (5) substitute—
- “ (4) A person is a relevant independent adviser for the purposes of subsection (2B)(c)—
- (a) if he is a qualified lawyer,
 - (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
 - (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
 - (d) if he is a person of a description specified in an order made by the Secretary of State.
- (4A) But a person is not a relevant independent adviser for the purposes of subsection (2B)(c) in relation to the complainant—
- (a) if he is, is employed by or is acting in the matter for the other party or a person who is connected with the other party,
 - (b) in the case of a person within subsection (4)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
 - (c) in the case of a person within subsection (4)(c), if the complainant makes a payment for the advice received from him, or
 - (d) in the case of a person of a description specified in an order under subsection (4)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.

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- (4B) In subsection (4)(a) “qualified lawyer” means—
- (a) as respects England and Wales, a barrister (whether in practice as such or employed to give legal advice), a solicitor who holds a practising certificate, or a person other than a barrister or solicitor who is an authorised advocate or authorised litigator (within the meaning of the ^{M1}Courts and Legal Services Act 1990), and
 - (b) as respects Scotland, an advocate (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.
- (4C) An order under subsection (4)(d) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) For the purposes of subsection (4A) any two persons are to be treated as connected—
- (a) if one is a company of which the other (directly or indirectly) has control, or
 - (b) if both are companies of which a third person (directly or indirectly) has control.”

Marginal Citations

M1 1990 c. 41.

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