

*Status: Point in time view as at 06/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Employment Relations Act 2004, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 57(1)

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Agricultural Wages Act 1948*

- 1 In section 15A of the Agricultural Wages Act 1948 (c. 47) (disclosure of information obtained by officers acting for the purposes of the 1998 Act), after subsection (5) insert—

“(5A) Nothing in this section prevents a disclosure in accordance with section 16A of the National Minimum Wage Act 1998.”

#### **Commencement Information**

**I1** Sch. 1 para. 1 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

##### *Agricultural Wages (Regulation) (Northern Ireland) Order 1977*

- 2 In Article 11A of the Agricultural Wages (Regulation) (Northern Ireland) Order 1977 (S.I. 1977/2151 (N.I. 22)) (disclosure of information obtained by officers acting for the purposes of the 1998 Act), after paragraph (5) add—

“(6) Nothing in this Article prevents a disclosure in accordance with section 16A of the National Minimum Wage Act 1998.”

#### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

##### *The 1992 Act*

- 3 In section 19 of the 1992 Act (application of certain provisions relating to friendly societies to trade unions), omit subsection (4).

#### **Commencement Information**

**I3** Sch. 1 para. 3 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 4 In section 41(3) of the 1992 Act (date of next re-examination of superannuation scheme where exemption revoked by Certification Officer), for “(1)(b)” substitute “(2)”.

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**Commencement Information**

**I4** Sch. 1 para. 4 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 5 In section 54(3) of the 1992 Act (time limit for applications under section 55 or 56 of that Act), for “No such application” substitute “ Where an election has been held, no application under those sections with respect to that election ”.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 6 In section 82 of the 1992 Act (rules as to a union’s political fund), for subsection (4) substitute—
- “(4A) Where an order has been made under this section, any person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if he had made the complaint on which it was made.
- (4B) An order made by the Certification Officer under this section may be enforced—
- (a) in England and Wales, in the same way as an order of the county court;
- (b) in Scotland, in the same way as an order of the sheriff.”

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch. (with art. 20)

- 7 In section 103 of the 1992 Act (complaints as regards passing of resolution on amalgamation or transfer of engagements), in subsection (8), for “application” substitute “ complaint ”.

**Commencement Information**

**I7** Sch. 1 para. 7 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 8 In section 146 of the 1992 Act (action short of dismissal on grounds related to union membership or activities), in each of subsections (1), (3) and (4), for “the purpose” substitute “ the sole or main purpose ”.

**Commencement Information**

**I8** Sch. 1 para. 8 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 9 In section 148 of the 1992 Act (consideration of complaint), in subsection (1), for “the purpose” substitute “ what was the sole or main purpose ”.

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**Commencement Information**

**I9** Sch. 1 para. 9 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 10 In section 150 of the 1992 Act (awards against third parties), in subsection (1)(a), for “the purpose” substitute “ the sole or main purpose ”.

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 11 (1) Section 155 of the 1992 Act (matters to be disregarded in assessing contributory fault) is amended as follows.
- (2) In subsection (2), omit the word “or” at the end of paragraph (b) and at the end of paragraph (c) insert “, or
- (d) not to make use of services made available by any trade union or by a particular trade union or by one of a number of particular trade unions.”
- (3) After that subsection insert—
- “(2A) Conduct or action of the complainant shall be disregarded in so far as it constitutes acceptance of or failure to accept an offer made in contravention of section 145A or 145B.”

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 12 In section 161(3) of the 1992 Act (application for interim relief), for “section 152(1) (a) or (b)” substitute “ section 152(1)(a), (b) or (ba), or on section 152(1)(bb) otherwise than in relation to an offer made in contravention of section 145A(1)(d), ”.

**Commencement Information**

**I12** Sch. 1 para. 12 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 13 In section 229(4) of the 1992 Act (statement which must appear on voting paper in ballot for industrial action), for “eight” substitute “ twelve ”.

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 14 In section 233 of the 1992 Act (calling of industrial action with the support of a ballot), in subsection (3)(b), for “take place” substitute “ begin ”.

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**Commencement Information**

**I14** Sch. 1 para. 14 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

15 In section 263A of the 1992 Act (proceedings of the Central Arbitration Committee under Schedule A1), after subsection (7) add—

“(8) The reference in subsection (1) to the Committee’s functions under Schedule A1 does not include a reference to its functions under paragraph 166 of that Schedule.”

**Commencement Information**

**I15** Sch. 1 para. 15 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

16 (1) Section 284 of the 1992 Act (share fishermen) is amended as follows.

(2) After “the employee” insert “ (or, in the case of sections 145A to 151, the worker) ”.

(3) For “sections 146 to 151 (action short of dismissal)” substitute “ sections 145A to 151 (inducements and detriment) ”.

**Commencement Information**

**I16** Sch. 1 para. 16 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

17 (1) Section 285 of the 1992 Act (employment outside Great Britain) is amended as follows.

(2) In subsection (1), for “sections 146 to 151 (action short of dismissal)” substitute “ sections 145A to 151 (inducements and detriment) ”.

(3) After that subsection insert—

“(1A) Sections 145A to 151 do not apply to employment where under his contract personally to do work or perform services a worker who is not an employee works outside Great Britain.”

(4) In subsection (2)—

(a) for “subsection (1)” substitute “ subsections (1) and (1A) ”; and

(b) in paragraph (c), after “as the case may be,” insert “ the worker or ”.

**Commencement Information**

**I17** Sch. 1 para. 17 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

18 In section 286(1) of the 1992 Act (provisions that may be disapplied in relation to prescribed descriptions of employment), for “sections 146 to 151 (action short of dismissal)” substitute “ sections 145A to 151 (inducements and detriment) ”.

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**Commencement Information**

**I18** Sch. 1 para. 18 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 19 In section 288(1)(b) of the 1992 Act (provisions restricting rights to bring proceedings to be void), omit sub-paragraph (ii) and the word “or” immediately preceding it.

**Commencement Information**

**I19** Sch. 1 para. 19 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 20 (1) Section 292 of the 1992 Act (death of employee or employer) is amended as follows.
- (2) Omit subsection (1)(a).
- (3) After subsection (1) insert—
- “(1A) This section also has effect in relation to sections 145A to 151 so far as those sections confer rights on workers or make provision in connection therewith.”
- (4) In subsections (2) to (4), after “employee”, wherever occurring, insert “ or worker ”.
- (5) In subsection (4), after “subsection (1)” insert “ or (1A) ”.

**Commencement Information**

**I20** Sch. 1 para. 20 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 21 In section 296 of the 1992 Act (meaning of “worker” and related expressions), in subsection (3), for “section 68(11)” substitute “ sections 68(4), 145F(3) and 151(1B) ”.

**Commencement Information**

**I21** Sch. 1 para. 21 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 22 In section 299 of the 1992 Act (index of defined expressions), omit the entry relating to “place of work (in Part V)”.

**Commencement Information**

**I22** Sch. 1 para. 22 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 23 (1) Schedule A1 to the 1992 Act (union recognition) is amended as follows.
- (2) In paragraph 2 (interpretation of Part 1), after sub-paragraph (3) insert—
- “(3A) References to an appropriate bargaining unit’s being decided by the CAC are to a bargaining unit’s being decided by the CAC to be appropriate under paragraph 19(2) or (3) or 19A(2) or (3).”

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- (3) In paragraph 16(1) (point after which application may not be withdrawn), in paragraph (a), after “paragraph” insert “ 19F(5) or ”.
- (4) In paragraph 17(3) (final event before which notice to cease consideration of application may be given)—
  - (a) in paragraph (a), after “paragraph” insert “ 19F(5) or ”; and
  - (b) in the words after paragraph (b), for “24(5)” substitute “ 24(6) ”.
- (5) In each of paragraphs 20(1)(b) and 21(1)(b) (application of paragraphs 20 and 21), after “appropriate period” insert “ (defined by paragraph 18) ”.
- (6) In paragraph 28 (costs of a recognition ballot), after sub-paragraph (6) insert—
 

“(6A) Where an amount is recoverable from a union under sub-paragraph (6) execution may be carried out, to the same extent and in the same manner as if the union were a body corporate, against any property held in trust for the union other than protected property as defined in section 23(2).”
- (7) In paragraph 32 (procedure where method of collective bargaining not carried out), in sub-paragraph (2), for “parties” substitute “ employer or the union (or unions) ”.
- (8) In paragraph 37 (applications by more than one union under paragraph 11 or 12), in sub-paragraph (3)(b), for “11(4)” substitute “ 12(4) ”.
- (9) In paragraph 38 (admissibility of other relevant applications), in sub-paragraph (1) (d), for “22(2), 27(2),” substitute “ 19F(5), 22(2), 27(2), 27D(3), 27D(4), ”.
- (10) In paragraph 40 (bar on further application after declaration by the CAC of non-entitlement to recognition), in sub-paragraph (1)—
  - (a) after “under paragraph” insert “ 27D(4) or ”; and
  - (b) for “held” substitute “ arranged ”.
- (11) In paragraph 41 (bar on further application after declaration by the CAC of end of bargaining arrangements), in sub-paragraph (1)—
  - (a) after “under paragraph” insert “ 119D(4), 119H(5) or ”; and
  - (b) for “held” substitute “ arranged ”.
- (12) In paragraph 46 (invalidity of application where worker falls within another relevant bargaining unit), in sub-paragraph (1)(d), for “22(2), 27(2),” substitute “ 19F(5), 22(2), 27(2), 27D(3), 27D(4), ”.
- (13) In paragraph 48 (invalidity of application after declaration by the CAC of non-entitlement to recognition), in sub-paragraph (1)—
  - (a) after “under paragraph” insert “ 27D(4) or ”; and
  - (b) for “held” substitute “ arranged ”.
- (14) In paragraph 49 (invalidity of application after declaration by the CAC of end of bargaining arrangements), in sub-paragraph (1)—
  - (a) after “under paragraph” insert “ 119D(4), 119H(5) or ”; and
  - (b) for “held” substitute “ arranged ”.
- (15) In paragraph 51 (competing applications), in sub-paragraph (2)(b), after “19” insert “ or 19A ”.
- (16) In paragraph 52 (agreements for recognition), in sub-paragraph (3)—

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- (a) in paragraph (f), after “paragraph”, where it first occurs, insert “ 19F(5) or ”; and
  - (b) in paragraph (h), for “24(5)” substitute “ 24(6) ”.
- (17) In paragraph 83 (duties of the CAC where it decides new unit contains at least one worker falling within a statutory outside bargaining unit), in sub-paragraph (8), for “(1)(a)” substitute “ (2)(a) ”.
- (18) In paragraph 89(5) (application of paragraphs 26 to 29), for the words from “but as if” onwards substitute “but as if—
- (a) references to the bargaining unit were references to the new unit, and
  - (b) paragraph 26(4F) to (4H), and the references in paragraph 26(4) and (6) to paragraph 19D, were omitted.”
- (19) In paragraph 89(8) (effect of declaration of entitlement to recognition), after “27(2)” insert “ or 27D(3) ”.
- (20) In paragraph 89, after sub-paragraph (8) add—
- “(9) Paragraphs (a) and (b) of sub-paragraph (7) also apply if the CAC issues a declaration under paragraph 27D(4).”
- (21) In paragraph 93 (withdrawal of applications), in sub-paragraph (1)(c), for “83(1)” substitute “ 83(2) ”.
- (22) In paragraph 119 (remedial orders) omit sub-paragraph (3).
- (23) In paragraph 120 (costs of a derecognition ballot), after sub-paragraph (6) insert—
- “(6A) Where an amount is recoverable from a union under sub-paragraph (6) execution may be carried out, to the same extent and in the same manner as if the union were a body corporate, against any property held in trust for the union other than protected property as defined in section 23(2).”
- (24) In paragraph 122(1) (first case in which Part 5 applies), in paragraph (a), for “22(2)” substitute “ 19F(5), 22(2), 27(2) or 27D(3) ”.
- (25) In paragraph 123(1) (second case in which Part 5 applies), in paragraph (a), for “22(2)” substitute “ 19F(5), 22(2), 27(2) or 27D(3) ”.
- (26) In paragraph 133(2) (ballot on de-recognition under Part 5 of that Schedule)—
- (a) in paragraph (a), for “reference in paragraph 119(2)(a)” substitute “ references in paragraphs 119(2)(a) and 119D(3) ”; and
  - (b) in paragraph (b), for “reference in paragraph 121(4)” substitute “ references in paragraphs 119A(3)(a)(ii), 119E(1)(b) and 121(4) ”.
- (27) In paragraph 147(2) (ballot on de-recognition under Part 6 of that Schedule)—
- (a) in paragraph (a), for “reference in paragraph 119(3)(a)” substitute “ references in paragraphs 119H(1) and 119I(1)(a) ”; and
  - (b) in paragraph (b), for “reference in paragraph 121(4)” substitute “ references in paragraphs 119A(3)(a)(ii), 119E(1)(b) and 121(4) ”.

#### **Commencement Information**

**I23** Sch. 1 para. 23(1)-(21)(24)-(27) in force at 6.4.2005 by [S.I. 2005/872, art. 4, Sch.](#) (with [arts. 10, 21](#))

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*Employment Tribunals Act 1996*

- 24 In section 10(1) of the Employment Tribunals Act 1996 (c. 17) (action taken for purpose of safeguarding national security), for paragraph (a) substitute—  
 “(a) section 145A, 145B or 146 of the Trade Union and Labour Relations (Consolidation) Act 1992 (inducements and detriments in respect of trade union membership etc.),”.

**Commencement Information**

**I24** Sch. 1 para. 24 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 25 In section 18 of that Act (conciliation), in subsection (1)(b), after “138,” insert “145A, 145B,”.

**Commencement Information**

**I25** Sch. 1 para. 25 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 26 In section 30(2) of that Act (matters which may be included in procedural rules for Employment Appeal Tribunal) omit paragraph (e).

**Commencement Information**

**I26** Sch. 1 para. 26 in force at 31.12.2004 by S.I. 2004/3342, art. 4(b) (with art. 11)

- 27 In section 36 of that Act (enforcement of decisions of Employment Appeal Tribunal) omit subsections (1) to (3).

**Commencement Information**

**I27** Sch. 1 para. 27 in force at 31.12.2004 by S.I. 2004/3342, art. 4(b) (with art. 12)

*Employment Rights Act 1996*

- 28 In section 92 of the Employment Rights Act 1996 (c. 18) (right to written statement of reasons for dismissal), in subsection (6), for paragraph (c) substitute—  
 “(c) in relation to an employee who is employed under a limited-term contract which terminates by virtue of the limiting event without being renewed under the same contract, means the date on which the termination takes effect.”

**Commencement Information**

**I28** Sch. 1 para. 28 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 29 In section 95(1) of that Act (circumstances in which employee is dismissed), omit “and section 96”.



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**Commencement Information**

**I29** Sch. 1 para. 29 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 30 In section 98(6)(b) of that Act (provisions to which provision about determination of fairness of dismissal is subject), for “and 238” substitute “ , 238 and 238A ”.

**Commencement Information**

**I30** Sch. 1 para. 30 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch. (with art. 12)

- 31 In section 104(4)(c) of that Act (assertion of statutory right), after “86,” insert “ 145A, 145B, ”.

**Commencement Information**

**I31** Sch. 1 para. 31 in force at 1.10.2004 by S.I. 2004/2566, art. 3(b) (with art. 6)

- 32 In section 108(3) of that Act (exceptions to one year qualifying period of continuous employment for claims for unfair dismissal), for paragraph (b) substitute—  
“(b) subsection (1) of section 99 (read with any regulations made under that section) applies.”.

**Commencement Information**

**I32** Sch. 1 para. 32 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch. (with art. 12)

- 33 In section 109(2) of that Act (exceptions to upper age limit for claims for unfair dismissal), for paragraph (b) substitute—  
“(b) subsection (1) of section 99 (read with any regulations made under that section) applies.”.

**Commencement Information**

**I33** Sch. 1 para. 33 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch. (with art. 12)

- 34 (1) Section 191 of that Act (application to the Crown) is amended as follows.  
(2) In subsection (4), omit the word “and” at the end of paragraph (d) and after that paragraph insert—  
“(da) the reference in section 98B(2)(a) to the employer’s undertaking shall be construed as a reference to the national interest, and”.  
(3) In that subsection, in paragraph (e), for “references”, where it first occurs, substitute “ any other reference ”.

**Commencement Information**

**I34** Sch. 1 para. 34 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

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- 35 In subsection (2) of section 192 of that Act (provisions applicable to service as a member of the armed forces on the commencement of that section)—
- (a) in paragraph (aa), after “sections”, where it first occurs, insert “ 43M, ”; and
  - (b) in paragraph (e), after “sections” insert “ 98B(2) and (3), ”.

**Commencement Information**

**I35** Sch. 1 para. 35 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 36 (1) Section 194 of that Act (provisions of the Act which have effect in relation to employment as a member of the staff of the House of Lords) is amended as follows.
- (2) In subsection (2), in paragraph (c), after “sections”, where it first occurs, insert “ 43M, ”.
  - (3) After that subsection insert—
    - “(2A) For the purposes of the application of section 98B(2) in relation to a relevant member of the House of Lords staff, the reference to the employer’s undertaking shall be construed as a reference to the national interest or, if the case so requires, the interests of the House of Lords.”
  - (4) In subsection (3) for “the provisions” substitute “ the other provisions ”.

**Commencement Information**

**I36** Sch. 1 para. 36 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 37 (1) Section 195 of that Act (provisions of the Act which have effect in relation to employment as a member of the staff of the House of Commons) is amended as follows.
- (2) In subsection (2), in paragraph (c), after “sections”, where it first occurs, insert “ 43M, ”.
  - (3) After that subsection insert—
    - “(2A) For the purposes of the application of section 98B(2) in relation to a relevant member of the House of Commons staff, the reference to the employer’s undertaking shall be construed as a reference to the national interest or, if the case so requires, the interests of the House of Commons.”
  - (4) In subsection (3)(d), after “undertaking” insert “ (other than in section 98B) ”.

**Commencement Information**

**I37** Sch. 1 para. 37 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 38 In section 200 of that Act (application of certain provisions of the Act to police officers), in subsection (1), after “sections”, in the second place where it occurs, insert “ 43M, ”.

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**Commencement Information**

**I38** Sch. 1 para. 38 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 39 (1) Section 202 of that Act (restrictions on disclosure of information: national security) is amended as follows.
- (2) In subsection (2)(b), after “sections”, where it first occurs, insert “ 43M, ”.
- (3) In subsection (2)(g)—
- (a) in sub-paragraph (i), after “section”, where it first occurs, insert “ 98B, ”; and
  - (b) in sub-paragraph (ii), for “(2),” substitute “ (2A), ”.

**Commencement Information**

**I39** Sch. 1 para. 39 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

*National Minimum Wage Act 1998*

- 40 In section 15 of the National Minimum Wage Act 1998 (c. 39) (disclosure of information obtained by officers acting for the purposes of that Act), after subsection (6) insert—
- “(6A) Nothing in this section prevents a disclosure in accordance with section 16A below.”

**Commencement Information**

**I40** Sch. 1 para. 40 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

- 41 In section 16 of that Act (disclosure of information obtained by officers acting for the purposes of agricultural wages legislation), after subsection (5) insert—
- “(5A) Nothing in this section prevents a disclosure in accordance with section 16A below.”

**Commencement Information**

**I41** Sch. 1 para. 41 in force at 6.4.2005 by S.I. 2005/872, art. 4, Sch.

*Employment Relations Act 1999*

- 42 (1) Section 34 of the Employment Relations Act 1999 (c. 26) (indexation of amounts) is amended as follows.
- (2) In subsection (1), for paragraph (f) substitute—
- “(ea) section 145E(3) of the Trade Union and Labour Relations (Consolidation) Act 1992 (unlawful inducements: amount of award);
  - (f) section 156(1) of that Act (unfair dismissal: minimum basic award);”.

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(3) In subsection (1)(g), for “176(6)” substitute “ 176(6A) ”.

(4) In subsection (3)(b), after “(c),” insert “ (ea), ”.

**Commencement Information**

**I42** Sch. 1 para. 42(1)(2)(4) in force at 1.10.2004 by S.I. 2004/2566, **art. 3(b)** (with art. 6)

**I43** Sch. 1 para. 42(3) in force at 31.12.2004 by S.I. 2004/3342, **art. 4(b)**

*Employment Act 2002*

- 43 In each of Schedules 3, 4 and 5 to the Employment Act 2002 (c. 22) (tribunal jurisdictions to which sections 31, 32 and 38 apply), for the entry relating to section 146 of the 1992 Act substitute— “ Section 145A of the Trade Union and Labour Relations (Consolidation) Act 1992 (inducements relating to union membership or activities) Section 145B of that Act (inducements relating to collective bargaining) Section 146 of that Act (detriment in relation to union membership and activities) ”.

**Commencement Information**

**I44** Sch. 1 para. 43 in force at 1.10.2004 by S.I. 2004/2566, **art. 3(b)** (with art. 6)

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