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STATUTORY INSTRUMENTS

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**2005 No. 872**

**The Employment Relations Act 2004 (Commencement  
No.3 and Transitional Provisions) Order 2005**

**Citation and interpretation**

1. This Order may be cited as the Employment Relations Act 2004 (Commencement No. 3 and Transitional Provisions) Order 2005.

2. In this Order—

“the Act” means the Employment Relations Act 2004;

“the 1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992(1);

“the 1996 Act” means the Employment Rights Act 1996(2);

“the 1998 Act” means the National Minimum Wage Act 1998(3); and

“Schedule A1” means Schedule A1 to the 1992 Act.

3. In this Order, save where the text otherwise indicates, references to sections and Schedules are references to sections of and Schedules to the Act.

**Commencement**

4. 6th April 2005 is the appointed day for the coming into force of the provisions of the Act listed in the first column of the Schedule to this Order for the purposes set out in the second column.

**Transitional Provisions**

5. The coming into force of the provisions listed in the Schedule to this Order is subject to the transitional provisions in articles 6 to 21.

6.—(1) The amendments made to Schedule A1 by sections 1 to 5, 6(1) and 7 do not apply to any application for recognition which is accepted by the CAC under paragraph 15(5) of Schedule A1 before the appointed day.

(2) The amendments made to Schedule A1 by section 6(2) do not apply to any application for a decision which is accepted by the CAC under paragraph 68(5) or 76(5) before the appointed day.

7. The provisions inserted into Schedule A1 by section 8 do not apply where, before the appointed day, the CAC has informed the parties, in accordance with paragraph 25(9) or 117(11) of Schedule A1.

8. The amendments made to Schedule A1 by section 11 do not apply to any application which is made to the CAC under paragraph 11 or 12 of Schedule A1 before the appointed day.

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(1) 1992 c. 52.  
(2) 1996 c. 18.  
(3) 1998 c. 39.

**9.—(1)** The amendments made to Schedule A1 by section 12 do not apply in relation to any notice which the employer gives, for the purposes of paragraph 99(2) of Schedule A1, to the union (or each of the unions) before the appointed day.

(2) Notwithstanding their repeal by Schedule 2, paragraphs 101(4) and (5), 109(2)(a), 113(2)(a) and 130(2)(a) of Schedule A1 will apply in relation to any notice which the employer gives, for the purposes of paragraph 99(2) of Schedule A1, before the appointed day.

**10.** The provisions inserted into Schedule A1 by section 14 and paragraph 23(6) of Schedule 1 do not apply in relation to any demand which the person appointed to conduct the ballot sends, under paragraph 28(4) or 120(4) of Schedule A1, to the employer and the union (or each of the unions) before the appointed day.

**11.** The amendments made to section 238A of the 1992 Act by sections 26, 27 and 28, and the provision inserted into the 1992 Act by section 28, do not apply to protected industrial action taken by an employee where the employee starts to take the action before the appointed day.

**12.** The amendments made to the 1992 Act by section 35 and to the 1996 Act by paragraphs 30, 32 and 33 of Schedule 1 do not apply in the case of any dismissal where the effective date of termination (within the meaning of section 97 of the 1996 Act) is before the appointed day.

**13.** The amendments made to the 1992 Act and the 1996 Act by sections 40 and 41 do not apply in the case of any dismissal where the effective date of termination (within the meaning of section 97 of the 1996 Act) is before the appointed day or in the case of any detriment where the act or deliberate failure to act is before the appointed day.

**14.** The provisions inserted into the 1998 Act by section 44 do not apply to any information which is obtained by an enforcement officer for the purposes of the relevant legislation before the appointed day.

**15.** The provisions inserted into the 1998 Act by sections 45 and 46 and the amendments made to that Act by section 46 do not apply in relation to any enforcement notice which is issued before the appointed day.

**16.** The provisions inserted into the 1992 Act by section 48 do not apply to any application or complaint which is made to the Certification Officer before the appointed day.

**17.** The amendments made to the 1992 Act by section 50(1) do not apply to any instrument submitted to the Certification Officer for approval before the appointed day.

**18.** The provisions inserted into the 1992 Act by section 50(2) and (3) do not apply to any application for registration of an instrument of amalgamation or transfer which is sent to the Certification Officer before the appointed day.

**19.—(1)** The amendments made to the 1992 Act by section 51 do not apply to any refusal or decision of the Certification Officer made before the appointed day.

(2) Notwithstanding its repeal by Schedule 2, section 126(2) will apply to any refusal or decision of the Certification Officer made before the appointed day.

**20.** The amendments made to the 1992 Act by paragraph 6 of Schedule 1 do not apply to any order made under section 82(3) before the appointed day.

**21.** Until the appointed day for the coming into force of sections 9, 10 and 13 the references in Schedule A1 to paragraphs 27D(3), 27D(4), 119A(3)(a)(ii), 119D(3), 119D(4), 129E(1)(b), 119H(1), 119(1), 119H(5) and 119I(1)(a) (which paragraphs 23(9) to (14), (19), (20) and (24) to (27) of Schedule 1 insert into Schedule A1) shall be of no effect.

15th March 2005

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Employment Relations Consumers and Postal  
Services  
Department of Trade and Industry