

[¹Employment Tribunals Act] 1996

CHAPTER 17

Note: The material reproduced or annotated below is limited to what is relevant to this work:

Ss. 16; 17; 38; 39; 43-48; Sch. 1 paras. 7 and 11; Sch. 2 paras. 1-6 and 8-10; Sch. 3, Part 1

An Act to consolidate enactments relating to [¹employment tribunals] and the Employment Appeal Tribunal. [22nd May 1996]

PART I

[¹EMPLOYMENT TRIBUNALS]

Ss. 1-15 not reproduced in this work.

Recoupment of social security benefits

16.—(1) This section applies to payments which are the subject of proceedings before industrial tribunals and which are— Power to provide for recoupment of benefits.

- (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, 1992 c. 52.
- (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 1996 c. 18.
- (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—

¹ Industrial Tribunals renamed Employment Tribunals (1.8.98) by S.I. of the Employment Rights (Dispute Resolution) Act 1998.

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- (a) enabling the Secretary of State to recover from an employer, by way of total or partial recoupment of jobseeker's allowance [¹, income support or income-related employment and support allowance]–
 - (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 [jobseeker's allowance, income support or income-related employment and support allowance], to the Secretary of State instead of to an employee, and
- (c) requiring an [²employment 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 [¹, income support or income-related employment and support allowance] 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 to those payments, and

[¹(b) so as to apply to all or any of the benefits mentioned in subsection (3).]

(5) Regulations under this section may–

- (a) confer powers and impose duties on [²employment tribunals] or [...³] 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,

[²(cc) provide for the determination by the Secretary of State of any issue arising as to the total or partial recoupment in pursuance of the regulations of a jobseeker's allowance, unemployment benefit [¹, income support or income-related employment and support allowance],]

- (d) confer on an employee a right of appeal to [⁴the First-tier Tribunal] against any decision of the Secretary of State on any such issue, and
- (e) provide for the proof in proceedings before [²employment tribunals] (whether by certificate or in any other manner) of any amount of jobseeker's allowance [¹, income support or income-related employment and support allowance] paid to an employee.

(6) Regulations under this section may make different provision for different cases.

Recoupment:
further provisions.

17.—(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 [¹, income support or income-related employment and support allowance]–

- (a) no sum shall be recoverable under Part III or V of the Social Security Administration Act 1992, and

1992 c. 5.

¹ Words substituted in ss. 16 and 17 (27.10.08) by Sch. 3, para. 15(2) to the Welfare Reform Act 2007 (c. 5).

² Industrial Tribunals renamed Employment Tribunals (1.8.98) by S.I. of the Employment Rights (Dispute Resolution) Act 1998.

³ Words deleted and substituted in s. 16(5) (18.10.99) by the S.S. Act 1998 (c. 75) Sch. 7, para. 147.

⁴ Words substituted in s. 16(5)(d) (3.11.08) by S.I. 2008/2833, Art. 137.

- (b) no abatement, payment or reduction shall be made by reference to the jobseeker's allowance [¹, income support or income-related employment and support allowance] 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.

1995 c. 18.

[¹(5) In this section and section 16 “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).]

Ss. 18-37 not reproduced in this work.

PART III
 SUPPLEMENTARY

Crown employment and Parliamentary staff

38.—(1) This Act has effect in relation to Crown employment and persons in Crown employment as it has effect in relation to other employment and other employees.

Crown employment.

(2) In this Act “Crown employment” means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by a statutory provision.

(3) For the purposes of the application of this Act in relation to Crown employment in accordance with subsection (1)–

- (a) references to an employee shall be construed as references to a person in Crown employment, and
 (b) references to a contract of employment shall be construed as references to the terms of employment of a person in Crown employment.

(4) Subsection (1) applies to–

- (a) service as a member of the naval, military or air forces of the Crown, and
 (b) employment by an association established for the purposes of Part XI of the Reserve Forces Act 1996;

but Her Majesty may by Order in Council make any provision of this Act apply to service as a member of the naval, military or air forces of the Crown subject to such exceptions and modifications as may be specified in the Order in Council.

39.—(1) This Act has effect in relation to employment as a relevant member of the House of Lords staff or a relevant member of the House of Commons staff as it has effect in relation to other employment.

Parliamentary staff

(2) Nothing in any rule of law or the law or practice of Parliament prevents a relevant member of the House of Lords staff or a relevant member of the House of Commons

¹ Words substituted in s. 17 and para. (5) inserted (27.10.08) by Sch. 3, para. 15(3) and (4) to the Welfare Reform Act 2007 (c. 5).

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staff from bringing before an industrial tribunal proceedings of any description which could be brought before such a tribunal by a person who is not a relevant member of the House of Lords staff or a relevant member of the House of Commons staff.

(3) For the purposes of the application of this Act in relation to a relevant member of the House of Commons staff—

- (a) references to an employee shall be construed as references to a relevant member of the House of Commons staff, and
- (b) references to a contract of employment shall be construed as including references to the terms of employment of a relevant member of the House of Commons staff.

(4) In this Act “relevant member of the House of Lords staff” means any person who is employed under a contract of employment with the Corporate Officer of the House of Lords.

1996 c.18.

(5) In this Act “relevant member of the House of Commons staff” has the same meaning as in section 195 of the Employment Rights Act 1996; and (subject to an Order in Council under subsection (12) of that section)—

- (a) subsections (6) and (7) of that section have effect for determining who is the employer of a relevant member of the House of Commons staff for the purposes of this Act, and
- (b) subsection (8) of that section applies in relation to proceedings brought by virtue of this section.

Ss. 40-42 not reproduced in this work.

Final provisions

Consequential amendments.

43. Schedule 1 (consequential amendments) shall have effect.

Transitionals, savings and transitory provisions.

44. Schedule 2 (transitional provisions, saving and transitory provisions) shall have effect.

Repeals and revocations.

45. The enactments specified in Part I of Schedule 3 are repealed, and the instruments specified in Part II of that Schedule are revoked, to the extent specified in the third column of that Schedule.

Commencement.

46. This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

The Act came into force on 22.8.96.

Extent.

47. This Act does not extend to Northern Ireland.

Short title.

48. This Act may be cited as [¹the Employment Tribunals Act 1996].

¹ Industrial Tribunals renamed Employment Tribunals (1.8.98) by S.I. of the Employment Rights (Dispute Resolution) Act 1998.

SCHEDULES

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

Paras. 1-6 not reproduced in this work.

The Social Security Administration Act 1992 (c. 5)

7. [...¹]

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

8. In section 288 of the Trade Union and Labour Relations (Consolidation) Act 1992—

- (a) in subsection (2), for paragraphs (a) and (b) substitute “section 18 of [²the Employment Tribunals Act 1996] (conciliation)”, and
- (b) in subsection (2A), for “section 290” substitute “subsection (1)(b) of that section”.

The Tribunals and Inquiries Act 1992 (c. 53)

9.—(1) The Tribunals and Inquiries Act 1992 is amended as follows.

(2) In section 11(2), for “section 136(1) of the Employment Protection (Consolidation) Act 1978” substitute “section 21(1) of [²the Employment Tribunals Act 1996]”.

(3) In Schedule 1—

- (a) in Part I, in paragraph 16, and
- (b) in Part II, in paragraph 51,

for “section 128 of the Employment Protection (Consolidation) Act 1978 (c. 44)” substitute “section 1(1) of [²the Employment Tribunals Act 1996] (c. 17)”.

The Judicial Pensions and Retirement Act 1993 (c. 8)

10.—(1) The Judicial Pensions and Retirement Act 1993 is amended as follows.

(2) In Schedule 1, in Part II, in the entry relating to the office of chairman of industrial tribunals, for “section 128 of the Employment Protection (Consolidation) Act 1978” substitute “section 1(1) of [²the Employment Tribunals Act 1996]”.

(3) In Schedule 5—

- (a) in the entry relating to the office of chairman of industrial tribunals, for “section 128 of the Employment Protection (Consolidation) Act 1978” substitute “section 1(1) of [²the Employment Tribunals Act 1996]”, and
- (b) in the entry relating to the office of member of the Employment Appeal Tribunal, for “section 135(2)(c) of the Employment Protection (Consolidation) Act 1978” substitute “section 22(1)(c) of [²the Employment Tribunals Act 1996]”.

(4) In paragraph 5 of Schedule 7—

- (a) in sub-paragraphs (2)(g) and (5)(vii), for “section 128 of the Employment Protection (Consolidation) Act 1978” substitute “section 1(1) of [²the Employment Tribunals Act 1996]”, and
- (b) in sub-paragraph (7) for “section 135(2)(c) of the Employment Protection (Consolidation) Act 1978” substitute “section 22(1)(c) of [²the Employment Tribunals Act 1996]”.

¹ Para. 7 deleted (29.11.99) by S.S. Act 1998, Sch. 8.

² Industrial Tribunals renamed Employment Tribunals (1.8.98) by S.I. of the Employment Rights (Dispute Resolution) Act 1998.

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The Pension Schemes Act 1993 (c.48)

Section 44.

11. In section 181(1) of the Pensions Schemes Act 1993, in the definition of “industrial tribunal”, for “section 128 of the Employment Protection (Consolidation) Act 1978” substitute “section 1(1) of [the Employment Tribunals Act 1996]”.

Para 12 not reproduced in this work.

SCHEDULE 2

TRANSITIONAL PROVISIONS, SAVINGS AND TRANSITORY PROVISIONS

PART I

TRANSITIONAL PROVISIONS AND SAVINGS

1. The substitution of this Act for the provisions repealed or revoked by this Act does not affect the continuity of the law.

2. Anything done, or having effect as done, (including the making of subordinate legislation) under or for the purposes of any provision repealed or revoked by this Act has effect as if done under or for the purposes of any corresponding provision of this Act.

3. Any reference (express or implied) in this Act or any other enactment, or in any instrument or document, to a provision of this Act is (so far as the context permits) to be read as (according to the context) being or including in relation to times, circumstances and purposes before the commencement of this Act a reference to the corresponding provision repealed or revoked by this Act.

4.—(1) Any reference (express or implied) in any enactment, or in any instrument or document, to a provision repealed or revoked by this Act is (so far as the context permits) to be read as (according to the context) being or including in relation to times, circumstances and purposes after the commencement of this Act a reference to the corresponding provision of this Act.

(2) In particular, where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as the Act conferring the power, the power is also exercisable in relation to provisions of this Act which reproduce such enactments.

1978 c. 30.

5. Paragraphs 1 to 4 have effect in place of section 17(2) of the Interpretation Act 1978 (but are without prejudice to any other provision of that Act).

1978 c. 44.

6. The repeal by this Act of section 130 of, and Schedule 10 to, the Employment Protection (Consolidation) Act 1978 (jurisdiction of referees under specified provisions to be exercised by industrial tribunals) does not affect—

- (a) the operation of those provisions in relation to any question which may arise after the commencement of this Act, or
- (b) the continued operation of those provisions after the commencement of this Act in relation to any question which has arisen before that commencement.

¹ Industrial Tribunals renamed Employment Tribunals (1.8.98) by S.I. of the Employment Rights (Dispute Resolution) Act 1998.

Para. 7 not reproduced in this work.

Jobseeker's allowance

8.—(1) If paragraph 2 of Schedule 2 to the Jobseekers Act 1995 has not come into force before the commencement of this Act, this Act shall have effect until the relevant commencement date as if a reference to unemployment benefit were substituted for— 1995 c. 18.

- (a) each of the references to jobseeker's allowance in subsections (3) and (4) of section 16,
- (b) the second reference to jobseeker's allowance in subsection (5) of that section,
- (c) the first reference to jobseeker's allowance in subsection (1) of section 17, and
- (d) the reference to jobseeker's allowance in subsection (2) of that section.

(2) The reference in sub-paragraph (1) to the relevant commencement date is a reference—

- (a) if an order has been made before the commencement of this Act appointing a day after that commencement as the day on which paragraph 2 of Schedule 2 to the Jobseekers Act 1995 is to come into force, to the day so appointed, and 1995 c. 18.
- (b) otherwise, to such day as the Secretary of State may by order appoint.

Armed forces

9.—(1) If section 31 of the Trade Union Reform and Employment Rights Act 1993 has not come into force before the commencement of this Act, section 38 shall have effect until the relevant commencement date as if for subsection (4) there were substituted— 1993 c. 19.

“(4) Subsection (1)—

- (a) does not apply to service as a member of the naval, military or air forces of the Crown, but
- (b) does apply to employment by an association established for the purposes of Part XI of the Reserve Forces Act 1996.” 1996 c. 14.

(2) The reference in sub-paragraph (1) to the relevant commencement date is a reference—

- (a) if an order has been made before the commencement of this Act appointing a day after that commencement as the day on which section 31 of the Trade Union Reform and Employment Rights Act 1993 is to come into force, to the day so appointed, and
- (b) otherwise, to such day as the Secretary of State may by order appoint.

10.—(1) If Part XI of the Reserve Forces Act 1996 has not come into force before the commencement of this Act, section 38 of this Act shall have effect until the relevant commencement date as if for “Part XI of the Reserve Forces Act 1996” there were substituted “Part VI of the Reserve Forces Act 1980”. 1980 c. 9.

(2) The reference in sub-paragraph (1) to the relevant commencement date is a reference—

- (a) if an order has been made before the commencement of this Act appointing a day after that commencement as the day on which Part XI of the Reserves Forces Act 1996 is to come into force, to the day so appointed, and
- (b) otherwise, to such a day as the Secretary of State may by order appoint.

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SCHEDULE 3

Section 45

REPEALS AND REVOCATIONS

PART I

REPEALS

[Part I of Schedule 3 repeals s. 132 of the Employment Protection (Consolidation) Act 1978 (c. 44), which is re-enacted in ss. 16 and 17 of this Act. It also makes consequential repeals in the Social Security Act 1980 (c. 30), the Social Security Act 1986 (c. 50), the Social Security (Consequential Provisions) Act 1992 (c. 6), the Pension Schemes Act 1993 (c. 48), and the Pensions Act 1995 (c. 26).]