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Industrial Law



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Industrial Law

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To Jill, Alexander and Rosanna.

Preface

A week may or may not be a long time in politics, but a month can be an age in industrial law, still more so the time that must elapse, even with the most efficient publisher, between final submission of the manuscript of an industrial law text and its publication. This book has been prepared at a time of rapid change in the subject, with the prospect of a new Employment Act. Work commenced on it in the Autumn of 1978. It has been designed to replace Mansfield Cooper's *Outlines of Industrial Law*, the last (6th) edition of which was published in 1972. The format of that book, a pioneering work when it first appeared in 1947, had been outdated by the dynamic growth of the subject to an extent which made its further revision inappropriate: a wholly new book was called for.

With the change of government in 1979 came the prospect of new industrial legislation likely to make important changes to *certain* parts of the subject. It has been impossible to delay the manuscript until the passage of the Employment Bill which, for a variety of reasons, has taken longer than at first anticipated to complete its Parliamentary journey. The manuscript was delivered to the publishers in its final form *at the end of May 1980*. By that time, the Bill was before the House of Lords, and the government had had time to react to the recent decisions of the (judicial) House of Lords on the scope of union immunities (principally in *Express Newspapers Ltd v McShane*) by the addition of an extra clause to the Bill. The approach has therefore been to set out the law as it stood in May 1980 with, where appropriate, passages and commentaries on reforms in the forthcoming Employment Act (as drafted in the Bill at the time of final submission of the manuscript). Needless to say, large parts of the subject matter are unaffected or virtually unaffected by the proposed new legislation. Finally on timing, the decision of the European Court in *Macarthys Ltd v Smith* (that a woman can claim equality of pay with a male predecessor in the job under Article 119, even if she cannot do so under the Equal Pay Act) unfortunately came too late for inclusion in Chapter 7 (see p. 246).

The term 'industrial law' has been used to reflect the comprehensive treatment of a subject which includes health and safety at work, industrial safety legislation, the relevant areas of social security law and the darker recesses of wage

fixing by devices such as pay policies and arbitration, as well as to the more central areas of the law relating to industrial relations, employment contracts and the varying modern forms of employment protection. While the emphasis of the book is upon industrial *law*, treating it (as is now essential) as a major area of detailed substantive law and in a manner immediately recognisable to the lawyer, we have tried to present it against its practical background of industrial relations, and to give the reader some idea of the practical significance of some major areas of law by including recent statistical material.

Our thanks are of course due to all the categories of people to whom thanks are customarily given in the preface to a book such as this; particular mention might be made of Mrs. Iris Ward, the Barenboim of the typewriter, and of Mrs. Scanlon who also had the rare ability to find one of us on occasion. We are grateful, too, to Butterworth for their support and encouragement.

I.T.S.
J.C.W.
May, 1980.

Table of Statutes

References in this Table to *Statutes* are to Halsbury's Statutes of England (Third Edition) showing the volume and page at which the annotated text of the Act will be found.

	PAGE		PAGE
Accident Compensation Act 1972 (New Zealand)	340	Civil Aviation Act 1949 (2 <i>Statutes</i> 514)	21
Agricultural Wages Act 1948 (1 <i>Statutes</i> 804)	270	Civil Liability (Contribution) Act 1978 (48 <i>Statutes</i> 357)	101
Agriculture (Poisonous Substances) Act 1952 (1 <i>Statutes</i> 823)	371	s.1(1)	366
Agriculture (Safety, Health and Welfare Provisions) Act 1956 (1 <i>Statutes</i> 831)	371	2(1)	366
Alkali, & c. Works Regulation Act 1906 (26 <i>Statutes</i> 101)	371	Companies Act 1948 (5 <i>Statutes</i> 110)	
Apportionment Act 1870 (18 <i>Statutes</i> 434)		s.199	104
s.2, 5	242	319	69
Arbitration Act 1950 (2 <i>Statutes</i> 433)	18	Companies Act 1967 (5 <i>Statutes</i> 535)	
s.21	260	s.26(1)	12
Attachment of Earnings Act 1971 (41 <i>Statutes</i> 791)		Conciliation Act 1896 (37 <i>Statutes</i> 346)	15
s.1	275	Conspiracy and Protection of Property Act 1875 (8 <i>Statutes</i> 206)	5, 308, 312, 316
6	275	s.3	309
(5)	275	4	310
7	275	5	310, 311
(2)	275	7	309, 311, 312
14(1)	275	(2),(3)	313
15	275	Contracts of Employment Act 1963 (12 <i>Statutes</i> 203)	4, 76, 89, 118, 134
Sch. 3	275	Sch. 1	114
Bankruptcy Act 1914 (3 <i>Statutes</i> 33)		Contracts of Employment Act 1972 (42 <i>Statutes</i> 310)	5, 134
s.33	69	Sch. 1	114
Boiler Explosions Act 1882 (13 <i>Statutes</i> 311)	372	Copyright Act 1956 (7 <i>Statutes</i> 128)	
Boiler Explosions Act 1890 (13 <i>Statutes</i> 315)	372	s.4	111
Building (Scotland) Act 1959	373	Cotton Manufacturing Industry Temporary Provisions) Act 1934	261
Children and Young Persons Act 1933 (17 <i>Statutes</i> 435)		Counter – Inflation Act 1973 (43 <i>Statutes</i> 1577)	287
s.18, 19	410	s.1 – 5	287
Civil Aviation Act 1946	261	Counter – Inflation (Temporary Provisions) Act 1972 (42 <i>Statutes</i> 2236)	287
		s.1(1)	287

xvi *Table of Statutes*

	PAGE
Counter – Inflation (Temporary Provisions) Act 1972 — <i>cont.</i>	
s.2	287
3(1)–(3)	287
County Courts Act 1959 (7 <i>Statutes</i> 302)	
s.39, 42	240
Criminal Law Act 1977 (47 <i>Statutes</i> 142)	379
s.1(1)	291, 309
(3)	309
3	309
4(1)	309
6–8	310
Criminal Law Amendment Act 1867 (8 <i>Statutes</i> 172)	308
Criminal Law Amendment Act 1871	308
Crown Proceedings Act 1947 (8 <i>Statutes</i> 844)	72
Education Act 1944 (11 <i>Statutes</i> 153)	325
Education (Work Experience) Act 1973 (43 <i>Statutes</i> 414)	410
Employers' Liability (Compulsory Insurance) Act 1969 (40 <i>Statutes</i> 553)	340, 369
s.2(1),(2)	368
3	368
Employer's Liability (Defective Equipment) Act 1969 (40 <i>Statutes</i> 551)	355, 357
Employment Act 1980	5, 13, 17, 19, 20, 21, 23, 33, 54, 57, 63, 75, 130, 155, 164, 171, 179, 182, 198, 207, 261, 262, 294, 300, 301, 319, 325, 326
s.11–14	32
15	32, 334
23	54
57(3)	180
Employment Agencies Act 1973 (43 <i>Statutes</i> 417)	8
Employment Medical Advisory Service Act 1972 (42 <i>Statutes</i> 355)	382, 391
s.5	409
Employment of Children Act 1973 (43 <i>Statutes</i> 637)	410
Employment of Women, Young Persons, and Children Act 1920 (12 <i>Statutes</i> 57)	
s.1(1),(3)	410
Employment Protection Act 1975 (45 <i>Statutes</i> 316, 2371)	5, 15, 16, 23, 37, 39, 58, 69, 76, 118, 121, 154, 176, 204, 230, 259, 261, 268, 283, 337, 381
s.1(2)	13, 17, 30
2	17, 26
(1)	305
(4)	17

	PAGE
Employment Protection Act 1975 — <i>cont.</i>	
s.3	18
(1)	20
(5)	18
4	18
5	19
6	19, 164
(11)	19, 164
7	23
8	23, 66, 196, 290
(12)	196
10	20
11	13, 20, 27, 28, 29, 30, 305
(2)	27
12	13, 20, 27, 30, 33, 305
(14)	22
13	13, 20, 27, 31, 305
14	13, 20, 27, 29, 305
15	13, 20, 27, 305
(2)	31
16	13, 20, 27, 32, 305
(4)	22
17	33, 236
(2),(4)	33
18	33, 34, 35
(2)	34
19	33, 35
(4)	22
20	33, 35, 240
21	33, 240
89–96	266
98	259, 261
99	35, 194, 216, 235
(3)	236
(5)	35
(8)	239
(9)	194
100	35, 194, 216, 235, 238
(6)	239
101	35, 69, 194, 216, 235, 237
102	35, 194, 216, 235, 237
(5)–(11)	237
103	35, 194, 216, 235
104, 105	35, 194, 216, 235, 238
106, 107	35, 194, 216, 235
111(1)	283
116	26
118	305
125	381
126	27
Sch. 1	16, 20, 22
Sch. 11	21, 22, 259, 260, 261, 264, 265
para. 2	263

	PAGE
Employment Protection Act 1975 — <i>cont.</i>	
Sch. 11 — <i>cont.</i>	
para. 3 — 6	264
8 — 12	264
Pt II	265
Sch. 15	
para. 9	357
Sch. 16	
Pt III	132, 171, 199
Employment Protection (Consolidation) Act 1978 (48 Statutes 452)	5, 39, 58, 69, 88, 134, 176, 216
s.1	77, 78, 99
(1)	77
(3)	77, 100, 133, 240, 242, 243, 254
(4)	78, 165, 275
2	99
(3)	78, 92, 243
3	77
4	76, 78, 99
(1)	77
(2),(3)	78
5	77
8	240, 275
11	78
(2)	79
(5)	78
(6)	78, 79
(7)	78
12	56, 97, 245, 282
13	56, 97, 245
(1),(2)	57
14	56, 97, 245
15	56, 57, 97, 245
16	56, 97, 245
17	56, 57, 97, 245
(2)	156
18	56, 97, 245, 282
19	57, 58, 182, 245, 408
20	57, 245
(1)	58
21	57, 245
(2),(3)	58
22	57, 58, 245
(2)	156
23	53, 54, 55
(1)	53, 54
(2)	54
(5),(6)	54
24	53
(2)	156
25	53
26	53, 54, 67
26A	54
27	64, 65, 67, 136
(3)	66
(6)	66
28	64, 66, 67, 136
29	64, 67, 136
30	64
(1)	156

	PAGE
Employment Protection (Consolidation) Act 1978 — <i>cont.</i>	
s.30(2)	67
31	64, 68, 136
32	64, 65
33	59
(3)	75
(4)	59
34	60
35	60
36	60
(2)	156
39(1),(2)	60
40, 41	61
45	61
(2),(3)	62
47	61, 118
(3),(5)	61
48(1)	62
49	69, 134, 135, 171, 175, 217, 218
(3)	134
(5)	138
50	135
(3)	135
53	139, 163
(3)	163
54	179
(1)	176
55	99, 126, 176
(2)	130, 131, 147, 170
(3)	132, 170, 217
(4)	175
(5)	177
56	62, 64, 195
57	128
(1)	63, 202
(2)	100, 223
(3)	100, 169, 182, 183, 184, 193, 195, 202, 203, 214
58	53, 195
(3)	196, 197, 292
(4)	197
59	193, 194
60	195
61	182, 195
62	113, 137, 198, 199, 200, 283
(1)	200
(2)	199, 200
(4)	199
63	54, 181, 182
64	151, 176
(3)	195
65	179
(1)	178
66	53
67	204
(2),(4)	156
68	204

Employment Protection (Consolidation) Act 1978 — <i>cont.</i>	PAGE
s.68(1)	204
69	204, 205
(3)	205
70	204
(1)	206
(2)	205
71	204
(1),(2),(4),(5)	206
72	204
73	204
(7)	207, 213
(8)	207
(9)	150, 193, 207
74	200
(4)	148, 150, 215
(6)	213
(7)	207
75	200
(1)	207, 208
76	48, 200
77	200, 215
78	200, 215, 216
79	200, 215
81	192, 219
(1)	226, 245
(2)	201, 219, 220, 221, 222
(4)	224, 226
82	192, 225, 232
(1)	226
(2)	231, 232, 233
(3),(4)	228
(5)	224
83	99, 126, 192
(2)	130, 131, 170, 221, 230
84	192, 225
(1)	228
(3)	230, 231
(4)–(7)	230
85	170, 192, 217, 218
(2)	132
(3),(4)	217
(5)	232
86	62, 192
87	97, 192, 233, 245
88	97, 192, 245
(1)–(4)	234
89	192, 245
(1),(3)	234
90	175, 176, 192, 218
91	192
(2)	192
92	136, 137, 192, 231, 232, 233
(1)	233
(3),(4)	232
93	122, 123, 127, 192

Employment Protection (Consolidation) Act 1978 — <i>cont.</i>	PAGE
s.93(1)	126
94	114, 119, 192, 225
95	192
96	192, 226
97	192
98	192, 227
99	192, 226
(2)	226
100	192
101	156, 192, 218
(1),(2)	227
102	192, 227
103	192
104	192
(3)	235
(7)	234, 238
105	192
106	69, 192, 228
107	192
108	192, 234
109	192
110	136, 192, 233
111	72, 192, 226
112–120	192
121	69, 72
122, 125	69
131	2, 78, 133, 136, 151, 153, 240
133	17
(2)	160
(6)	159, 160
134	000
(1)	160
(2)	17
(5)	159, 160
135	154
136	154, 155
(2)	303, 305
(3)	24, 290
(4)	24
138(1)	72, 77
(3)	72, 79
(4),(5)	73
(7)	72
140	39, 60
(2)	18, 160
141	151, 177
(1)	77
142	75, 130, 151, 171
(1)	179
(2)	226
143(1)	56
(3),(4)	226
144	151
(1)	77
(2)	179, 226
145	151
(2)	179
(3)	226
146	151, 226
(1)	77, 179

	PAGE
Employment Protection (Consolidation) Act 1978 — <i>cont.</i>	
s.146(2)	73
148	57
(1)	206
151(2)	225
153	000
(1)	6, 61, 77, 119, 120, 196
(4)	57, 121, 202, 205
Sch. 1	57, 58, 408
Sch. 2	62
Sch. 3	134, 136
para. 2, 4	135
7	136
Sch. 4	226
para. 4	227
Sch. 5	73, 226
Sch. 6, Pt I	234
Sch. 9, para. 2	179
7	161
Sch. 11, para. 21	162
Sch. 12, para. 2, 3, 8, 14, 17, 22	123
Sch. 13	59, 62, 114, 125, 134, 253, 257
para. 2	114
3	115
4	115, 116
5	115
6	116
7	115
9	116, 118, 119, 244
10	118
12	225
14	114
15	114, 117, 118, 119, 137
17	119, 120, 121, 123, 124, 224, 225
18	121
24	115, 118, 177
Sch. 14	57, 60, 66, 68, 136, 164, 227, 237, 253, 255
para. 1	255, 256
2	135, 255
Pt. II	255
3	255, 256
4	256
5	257
6	256, 257
7	255
8	206, 207
9–11	257
Equal Pay Act 1970 (40 Statutes	
561)	17, 21, 40, 45, 245
s.1(1),(2)	247
(3)	251, 252
(4)	247, 251
(5)	249
(6)	250
(8)	72, 245

Equal Pay Act 1970 — <i>cont.</i>	PAGE
s.1(13)	247
2(4),(5)	253
3	252
(1A).(3)	252
Explosives Act 1875 (13 Statutes	
155)	371
Explosives Act 1923 (13 Statutes	
231)	371
Factories Act 1937	383
Factories Act 1959	371
Factories Act 1961 (13 Statutes	
400)	41, 358, 370, 371, 372, 374, 383, 390, 391, 406, 410
s.1	391
(1)	390
2, 3	390, 391
4	390, 391, 404
5–7, 10A	391
12	392, 393
13	392, 393
(2)	392
14	360, 392, 393, 394, 395, 396, 397, 399
(1)	392
(2)	392, 395
(6)	397
15	392
16	392, 393, 411
17	391, 397, 411
(1)	359
(2)	359, 397
18	397
20, 21	398
22–24	399
25	398
26	399
27	399
(9)	399
28	399, 400, 401
29	400
(2)	401
30(1)–(3).(6).(8)–(10)	401
31	402
(4)	402
32–37, 39	402
40–52, 57	403
58	403, 404
59	98, 403, 404
60, 61	403
63	390, 404
64, 65	405
72	406
73–75	408
76	359, 394, 395
80–83	407
86–89	408
90	408, 409
91, 92	408
93, 94	408, 409
95–114, 117, 119, 119A	409
121(1),(2)	388

xx *Table of Statutes*

	PAGE
Factories Act 1961 — <i>cont.</i>	
s.122(1)	388
123 — 127	389
128, 140	408
155	383
175	383, 411
(1)	383, 386, 387
(2)	387, 388, 389
(3),(6),(7)	387
(9)	386
176	398
(1)	388, 392, 408
Factory and Workshop Act 1901	383
Family Law Reform Act 1969 (17 <i>Statutes</i> 792)	
s.1, 9	73
Fatal Accidents Act 1976 (46 <i>Statutes</i> 1115)	364
s.4	363, 364
5	364
Films Act 1960 (35 <i>Statutes</i> 256)	261
Finance Act 1971 (41 <i>Statutes</i> 1418)	
s.29 — 31	11
Finance Act 1978 (48 <i>Statutes</i> 1373)	
s.53 — 61	37
Sch. 9	37
Finance (No. 2) Act 1975	
s.68 — 71	11
Fire Precautions Act 1971 (41 <i>Statutes</i> 1115)	403, 411
s.18(2)	403
Friendly Societies Act 1974 (44 <i>Statutes</i> 279)	277
Health and Safety at Work etc. Act 1974 (44 <i>Statutes</i> 1083)	
4, 23, 339, 370, 372, 372, 383, 395, 412	
s.1	377
(1)	377
2	26, 361, 366, 374, 377, 379, 381
(1)	373
(2)	373, 374
(3)	35, 380, 381
(5)	37, 381
(6)	381
3	359, 361, 366, 374, 377, 379
(1) — (3)	374
4	361, 366, 374, 377, 379
(1) — (4)	375
5	361, 366, 374, 375, 377, 379
(1) — (3)	375
6	361, 366, 374, 377, 379, 397

	PAGE
Health and Safety at Work etc. Act 1974 — <i>cont.</i>	
s. 6(1) — (3)	375
(4)	375, 376
(5),(6),(8)	376
7	114, 361, 366, 374, 376, 377, 379
8	366, 374, 376, 379
9	376, 379
10(2),(3),(5)	376
11	377
(2)	377
12	377
13(1)	377
14	377, 407
(2)	377
15	359, 377, 394
16	57, 377
(1)	377
(3) — (5)	378
17	357
(1)	378
(2)	357
18(1),(2)	378
19(1),(2)	378
20	407
(2),(5)	378
21	378
22	379
(4)	378
23	379
(3)	379
25	379
27	35, 108, 378
28	35, 108, 378
(9)	357
33	379
36	380
(2)	380
37	380
(2)	380
38 — 40	380
47	374, 382
(1)	359, 361, 366, 374
(2)	359, 361, 374
48	380
50	377
(3)	377
53	374
(1)	375
78(7)	403
Sch. 2	376
Sch. 3	359
Highways Act 1959 (15 <i>Statutes</i> 143)	313
s.121	311
Hours of Employment (Conventions) Act 1936 (12 <i>Statutes</i> 64)	411
Hosiery Manufacture (Wages) Act 1874 (12 <i>Statutes</i> 21)	
s.3	271
Housing Act 1930 (16 <i>Statutes</i> 41)	261
Housing Act 1936 (16 <i>Statutes</i> 46)	261

	PAGE		PAGE
Housing (Financial Provisions) Act 1924	261	Limitation Act 1963 (19 <i>Statutes</i> 102)	367
Income and Corporation Taxes Act 1970 (33 <i>Statutes</i> 17)		Limitation Act 1975 (45 <i>Statutes</i> 847)	367
s.187, 188	149	London Hackney Carriages Act 1843 (28 <i>Statutes</i> 43)	
204	275	s.23	75
338	290	Merchant Shipping Act 1894 (31 <i>Statutes</i> 57)	75
Independent Broadcasting Authority Act 1973 (43 <i>Statutes</i> 1498)	21, 261	Merchant Shipping Act 1970 (31 <i>Statutes</i> 739)	75
Industrial Courts Act 1919 (37 <i>Statutes</i> 349)	16	s.1(1),(3)	75
s.4	19	2	75
Industrial Relations Act 1971 (41 <i>Statutes</i> 2062)	4, 5, 15, 16, 27, 33, 113, 143, 154, 158, 176, 199, 266, 288, 290, 317	7-18	76
s.1(1)	13	27, 28	75
5(1)	53	30, 32	75
23(2)	170	Merchant Shipping Act 1974 (44 <i>Statutes</i> 1415)	
(3)	132	s.19	75
24(6)	180	Mineral Workings (Offshore Installations) Act 1971 (41 <i>Statutes</i> 940)	
34-36, 44-60	13	s.11	359
96	97	Mines and Quarries Act 1954 (22 <i>Statutes</i> 279)	358, 371, 374, 411, 412
147	318	s.124(1)	411
167	326	Mines and Quarries (Tips) Act 1969 (22 <i>Statutes</i> 626)	372
Industrial Relations Act 1973 (New Zealand)	15	Mines Management Act 1971 (41 <i>Statutes</i> 935)	411
Industry Act 1975 (41 <i>Statutes</i> 2049)	36	Molestation of Workmen Act 1825	308
s.28-34	36	Munitions of War Act 1915	258
Industry Act 1980	36	National Insurance Act 1911	277
Infants' Relief Act 1874 (17 <i>Statutes</i> 412)	73	National Insurance (Industrial Injuries) Act 1946 (23 <i>Statutes</i> 473)	342
s.1	73	Nuclear Installations Act 1965 (37 <i>Statutes</i> 430)	371
Insolvency Act 1976 (46 <i>Statutes</i> 152)		s.12	374
Sch. 1	69	Nuclear Installations Act 1969 (37 <i>Statutes</i> 466)	371
Law Reform (Contributory Negligence) Act 1945 (23 <i>Statutes</i> 789)	365	Occupiers' Liability Act 1957 (23 <i>Statutes</i> 792)	363
Law Reform (Frustrated Contracts) Act 1943 (7 <i>Statutes</i> 9)		s.2(3)	363
s.1(3)	242	(5)	365
2(4)	126	Offices, Shops and Railway Premises Act 1963 (13 <i>Statutes</i> 584)	371, 387, 411
Law Reform (Married Women and Tortfeasors) Act 1935 (35 <i>Statutes</i> 543)		s.85	411
s.6(1)	101	Patents Act 1949 (24 <i>Statutes</i> 550)	
Law Reform (Miscellaneous Provisions) Act 1934 (13 <i>Statutes</i> 115)	364	s.56(2)	110
s.1	363	Patents Act 1977 (47 <i>Statutes</i> 1005)	110
Law Reform (Personal Injuries) Act 1948 (35 <i>Statutes</i> 548)		s.39	110, 111
s.1	362	40(3),(6)	111
2	149, 340, 353	41	111
Limitation Act 1939 (19 <i>Statutes</i> 60)		42	110, 111
s.2A	367, 368	43(1),(2)	110
2B, 2C	367		
2D	367, 368		
(1)	368		

xxii *Table of Statutes*

	PAGE
Payment of Wages Act 1960 (12 Statutes 190)	271, 276
s.1 - 4, 9	276
Payment of Wages in Public- houses Prohibition Act 1883 (12 Statutes 31)	277
Petroleum (Consolidation) Act 1928 (26 Statutes 162)	371
Police Act 1964 (25 Statutes 330)	73
s.47	310
51	311, 313
53	310
Police Act 1969 (25 Statutes 400)	73
Post Office Act 1953 (25 Statutes 413)	
s.58	310
Prices and Incomes Act 1966 (37 Statutes 202)	286
s.1 - 5	286
13 - 15	286
16(1),(4)	286
29	286
Prices and Incomes Act 1967 (37 Statutes 287)	286
Prices and Incomes Act 1968	286
Race Relations Act 1976 (46 Statutes 389)	39, 50, 52, 53
s.1(1),(2)	52
2	52
3(1)	52
4, 5, 29	52
55	17
58, 62, 63	52
72	39
(4)	18
Radioactive Substances Act 1960 (37 Statutes 401)	371
Redundancy Payments Act 1965 (12 Statutes 236)	5, 216
s.3(1)	170
4(2)	132
Rehabilitation of Offenders Act 1974 (44 Statutes 148)	190
s.4	104
Resale Prices Act 1964 (37 Statutes 158)	000
s.4(2)	359
Restrictive Trade Practices Act 1956 (37 Statutes 77)	108
Road and Rail Traffic Act 1933	261
Road Haulage Wages Act 1938 (12 Statutes 70)	21, 261
s.2, 5	261
Sex Discrimination Act 1975 (45 Statutes 221)	39, 40, 52, 72, 245
s.1	43
(1)	42, 44, 48, 49

	PAGE
Sex Discrimination Act 1975 — <i>cont.</i>	
s.2, 3	40
4	45
6	43
(1)	45, 46
(2)	42, 43, 46, 47
(3),(4),(7)	41
7	46, 48
8	45
9, 12, 17 - 20	41
21	411
38	46
47	45
51, 52	41
55	42
63	48
64	17
65(1)	47, 48
(2)	48, 49
(3)	48
66(3)	49
(4)	47, 49
67 - 71	49
72	46, 49
74	49
75	49, 252
76(1),(5)	48
77	39
(4)	18
82(1)	40
85	72
Shop Clubs Act 1902 (14 Statutes 329)	276
Shops Act 1950 (13 Statutes 317)	411
s.24 - 36	411
Slaughterhouses Act 1958 (14 Statutes 11)	386
Social Security Act 1973 (43 Statutes 866)	
s.70(2)	274
Social Security Act 1975 (45 Statutes 1071)	149, 277, 342, 407
s.2(1)	277
4(1)	277
13(4)	277
(5)	278
14(1)	278
(3)	279, 280
(7),(8)	280
17(1)	278, 279, 281
18	280
19(1)	283
20	284
(1)	284
(4)	285
41, 44	280
50(3)	347
52	348, 349
53(1)	349
54	350
55	350

	PAGE
Social Security Act 1975 — <i>cont.</i>	
s.55(1)	350
56(1)	351
(5)	352
57(1),(5),(6)	352
58(1)	353
60(1)	353
61	353
62(1)	353
63(1)	353
67—75	363
76(2)	350
92	244
117(3)	352
124, 125	280
136	244
Sch. 1	275
Sch. 3	278
Social Security (Consequential Provisions) Act 1975 (45 <i>Statutes</i> 1339)	
s.1(3)	353
Sch. 2	353
Social Security (Miscellaneous Provisions) Act 1977 (47 <i>Statutes</i> 960)	
s.17(1)	280
Social Security Pensions Act 1975 (45 <i>Statutes</i> 1381)	78, 211
s.53	41
Societies (Miscellaneous Provisions) Act 1940 (14 <i>Statutes</i> 380)	304
Statute Law (Repeals) Act 1973 (43 <i>Statutes</i> 1381)	271
Statute of Labourers (1351)	70
Supplementary Benefits Act 1976 (46 <i>Statutes</i> 1046)	280
s.8(1)	283
Sch. 1	284
Terms and Conditions of Employment Act 1959 (12 <i>Statutes</i> 155)	259
s.8	259, 261, 265
Trade Boards Act 1909	258
Trade Disputes Act 1906 (37 <i>Statutes</i> 1001)	283, 288, 291, 318, 324, 325, 326
s.1	320
2	312
Trade Disputes Act 1965 (37 <i>Statutes</i> 1030)	316, 324
Trade Union Act 1871 (37 <i>Statutes</i> 990)	290, 299, 308, 316
s.2	291
3	291, 309
Trade Union Act 1913 (13 <i>Statutes</i> 1006)	5, 302
s.1(2)	303
3(1)	302
(2)	303
(3)	302

	PAGE
Trade Union Act 1913 — <i>cont.</i>	
s.5, 5A, 6	303
Schedule	302
Trade Union (Amalgamation) Act 1917	304
Trade Union (Amalgamations, etc.) Act 1964 (37 <i>Statutes</i> 1017).	5
s.1(1A)	304
4	305
(7),(8)	305
5	305
(4)	305
6	304
Trade Union Act Amendment Act 1876	
s.12	304
Trade Union and Labour Relations Act 1974 (44 <i>Statutes</i> 1766): 5, 6, 23, 317	
s.2	291
(1),(3)	291
(5)	291, 292, 300, 308
3	291
(1),(5)	291
5	293, 296, 299, 301
6	295, 299
7	295
8	23, 290
(10)	290
10, 11	303
12	304
13	315, 317, 325, 334, 335
(1)	323, 324, 325, 328, 330
(2)	316, 325
(3)	319, 320, 323, 324, 325, 335
(4)	291, 320
14	290, 291, 317
15	311, 312, 313, 314, 315, 326, 335
17(1)	336
(2)	337, 338
16	87, 140
18	14, 91
(4)	93, 324
28	111, 288, 302, 317
29	17, 111, 326, 327, 328
(1)	26, 27, 283, 305, 333
(4)	305
(6)	326
30	24, 111, 197
(1)	6, 29, 53, 65, 66, 291, 292, 326
Sch 1	152, 176, 180, 197, 199, 200
Sch. 2, Pt I, II	304

	PAGE		PAGE
Trade Union and Labour Relations (Amendment) Act 1976 (46 <i>Statutes 2090</i>)	5, 197, 293, 295, 317, 325	Unfair Contract Terms Act 1977 — <i>cont.</i>	
s.3	323	s. 2(3)	365
Truck Act 1831 (12 <i>Statutes</i> 11)	271	Unlawful Combination of Workmen (1800)	308
s.1 — 3	271	Wages Councils Act 1945 (12 <i>Statutes 148</i>)	258, 266
4 — 6, 9	272	s.10	269
23	75, 272	Wages Councils Act 1979 (49 <i>Statutes 584</i>)	5, 19, 266
24	273	s.1(1),(2)	266
Truck Act 1896 (12 <i>Statutes</i> 42)	272	2(1)	266
s.1	75, 274	3	267
(3)	274	4(2),(3)	267
2	75, 273, 274	5(1),(2)	267
3	75	6(2)	267
5	274	7	267
6	275	(4)	267
9	273	10	268
10	275	11	21, 269
Truck Amendment Act 1887 (12 <i>Statutes 32</i>)	272	14	252, 268
s.2	271	(5)	269
4	273	15	270
5	272	(3)	270
6	271	16	269
9	273	17, 18	270
12	272	20(1),(2)	270
Unfair Contract Terms Act 1977 (47 <i>Statutes 84</i>)		26	19
s.2	363	28	269
		Sch. 1	267
		Sch. 2	268
		Sch. 4	268

List of Cases

A	PAGE		PAGE
Abbott v Sullivan (1952)	297	Ansell Rubber Co v Allied Rubber Industries (1967)	83, 109
Abernethy v Mott, Hay and Anderson (1974)	181, 219	Appleyard v FM Smith (Hull) Ltd (1972)	180
Acrow (Automatic) Ltd v Rex Chainbelt Inc (1971)	325	Armit v McLaughlin (1966)	217
Adams v Charles Zub Associates Ltd (1978)	172	Armour (Hamish) v Association of Scientific, Technical and Managerial Staffs (1979)	239
Adams v John Wright & Sons Ltd (1972)	257	Armstrong, Whitworth & Co Ltd v Redford (1920)	345, 346
Adamson v Jarvis (1827)	102	Armstrong Whitworth Rolls Ltd v Mustard (1971)	254
Adda International Ltd v Curcio (1976)	208, 209	Arnold v Thomas Harrington Ltd (1969)	221
Addis v Gramophone Co Ltd (1909)	146, 147, 148	Ashdown v Jonas Woodhead & Sons (1975)	400
Adsett v K and L Steelfounders and Engineers Ltd (1953)	404	Ashdown v Williams Ltd (1957)	363
Ainsworth v Glass Tubes and Components Ltd (1977)	250	Askew v Victoria Sporting Club Ltd (1976)	162
Air Canada v Lee (1978)	223, 230	Associated Newspapers Ltd v Flynn (1970)	327
Airfix Footwear Ltd v Cope (1978)	8, 11, 12	Associated Newspapers Group Ltd v Wade (1979)	321, 322, 325, 330, 331, 335
Alidair Ltd v Taylor (1978)	169, 183, 186, 191	Associated Picture Houses Ltd v Wednesbury Corp'n (1948)	21
Allen v Flood (1898)	40, 316, 319, 323, 325	Associated Tyre Specialists Ltd v Waterhouse (1977)	99, 173
Allen & Son v Coventry (1980)	121	Association of HSD (Hatfield) Employees v Certification Officer (1978)	24, 25
Amalgamated Asphalte Companies Ltd v Dockrill (1972)	257	Association of Pattern Makers and Allied Craftsmen v Kirvin Ltd (1978)	236, 238, 239
Amalgamated Society of Rey Servants v Osborne (1910)	302	Athersmith v Drury (1858)	271
American Cyanamid Co v Ethicon Ltd (1975)	87, 336, 337, 338	Atkinson v George Lindsay & Co (1980)	194
Amies v Inner London Education Authority (1977)	246	A-G for Guyana v Nobrega (1969)	72
Amos v Max Arc Ltd (1973)	220		
Annamunthodo v Oilfield Workers' Trade Union (1961)	298		