



Services Industrial Professional & Technical Union

Industrial Relations Act 1990

Immunity From Prosecution

The 1990 Act provides certain immunities to trade unions and it's members:

- From criminal prosecution and civil proceedings for conspiracy (section 10)
 - From civil proceeding for inducing or threatening to induce a breach of contract (Section 12)
 - From Tort proceedings (Section 13 – TU only)
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where industrial action or strike action is taken and certain conditions are met

Conditions

The action taken is in
**'contemplation or
furtherance'** of
a **trade dispute**
(as defined in section 8)

and

The action is taken
following a **secret ballot**
(as defined in section 14
and Union Rules)

and

Notice is issued to the
employer
(section 19)

and

No unlawful entering onto or
remaining on property and
no damage has been done to
property, **no death or
personal injury**, or any action
likely to result in same
(Section 19)

and

Picketing is Peaceful
(as defined in
section 11)

Trade Dispute (Section 8)

'any dispute between employers and workers which is connected with the employment or non-employment or the terms or conditions of, or affecting the employment of, any person'

Strike (Section 8)

'a cessation of work by any number or body of workers in combination or a concerted refusal or a refusal under a common understanding of any number to continue to work for their employer done as a means of compelling their employer to accept or not to accept terms and conditions of or affecting employment'

Industrial Action (Section 8)

'any action, which affects, or is likely to affect, the terms or conditions, whether express or implied of a contract and which is taken by any number or body of workers in compelling their employer, to accept or not to accept terms or conditions of or affecting employment'

Secret Ballot (Section 14)



A trade union shall not organise, or participate, or sanction or support a strike or other form of industrial action without a secret ballot.



The trade union's committee of management or other controlling authority (e.g. National Executive Council/Committee) shall have full discretion in relation to organising, participating, sanctioning or supporting industrial action.

Secret Ballot (Section 14)



All those whom the union believes at the time of the ballot may be called upon to participate in the action are given the opportunity to vote.



The union will ensure that any members entitled to vote in any ballot are able to do so without interference or constraint imposed by any member or officer of the union and that every member wishing to vote is given a fair opportunity to vote.

Declaration of Result Of A Secret Ballot (Section 14)

A trade union is required to take reasonable steps to make known to the members entitled to vote the details of the ballot in the following manner:

the number of ballot papers issued;

the number of votes cast;

the number of votes in favour of the proposal;

the number of votes against the proposal;

the number of spoiled votes.

Notice (Section 19)

“gives notice of not less than one week to the employer”



Collective agreement may state more than one week

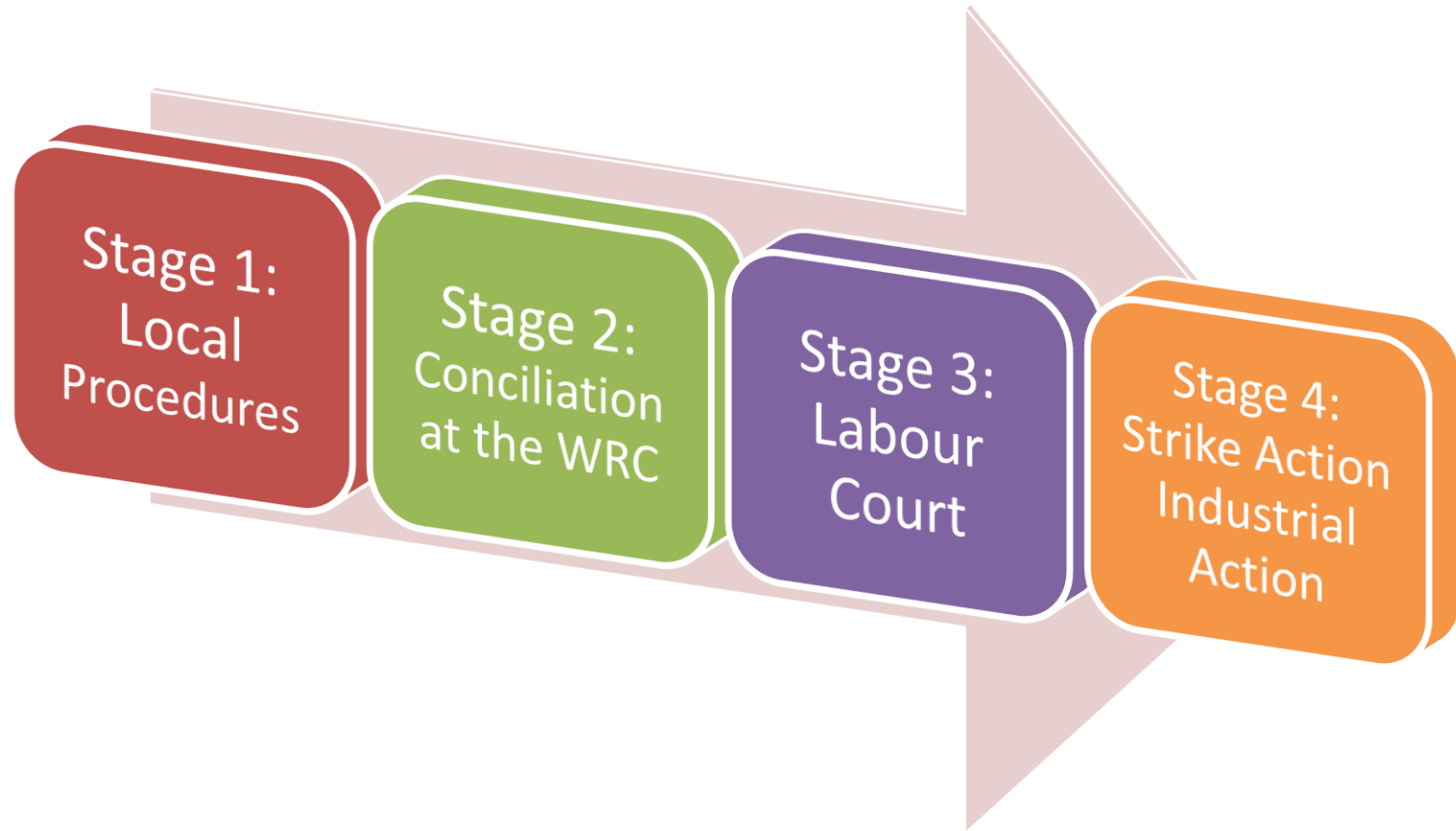


Notice must be clear and give start and finish time of Industrial Action (7 x 24 hours) – Not specified in Act but!

Picketing (Section 11 (1))

“It shall be lawful for one or more persons, acting on their own behalf or on behalf of a trade union **in contemplation or furtherance of a trade dispute**, to attend **at**, or where that is not practicable, **at the approaches to**, a place where their employer **works or carries on business**, if they so attend merely **for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from working”**

Best Practice Not Always Possible



The practice of secondary picketing - picketing the premises of an employer not directly involved in the dispute - is lawful providing it is reasonable for the union or workers to believe that the other employer is acting in such a way as to frustrate the dispute by directly assisting their own employer.

This may, in practice, be difficult to prove.
Employer may state that they are merely taking advantage of a trading opportunity!

SECONDARY PICKETING (SECTION 11 (2))

The Act provides that, in relation to disputes (including dismissal) involving individual workers – as opposed to disputes involving more than one worker, immunity will only apply provided that custom and practice or agreed procedures have been adhered to and exhausted.

SINGLE PERSON DISPUTES (SECTION 9)



Organising for Fairness at Work
and Justice in Society