
STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART IV

RIGHTS OF TRADE UNION MEMBERS

Right not to be unreasonably excluded or expelled from trade union membership

29.—(1) This Article applies to employment by an employer with respect to which it is the practice, in accordance with a union membership agreement, for the employee to belong to a specified trade union or one of a number of specified trade unions.

(2) Every person who is, or is seeking to be, in employment to which this Article applies shall have the right—

- (a) not to have an application for membership of a specified trade union unreasonably refused;
- (b) not to be unreasonably expelled from a specified trade union.

(3) The rights conferred by paragraph (2) are in addition to and not in substitution for any right which exists apart from that paragraph; and, without prejudice to any remedy for infringement of any such other right, the remedies for infringement of a right conferred by that paragraph shall be those provided by the following provisions of this Article and Article 30.

(4) A complaint may be presented to an industrial tribunal against a trade union by a person that an application by him for membership of the union has been unreasonably refused, or that he has been unreasonably expelled from the union, in contravention of paragraph (2).

(5) On a complaint under this Article, the question whether a trade union has acted reasonably or unreasonably shall be determined in accordance with equity and the substantial merits of the case, and in particular a union shall not be regarded as having acted reasonably only because it has acted in accordance with the requirements of its rules or unreasonably only because it has acted in contravention of them.

(6) A tribunal shall not entertain a complaint under this Article unless it is presented to the tribunal before the end of the period of six months beginning with the date of the refusal or expulsion, as the case may be, or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of six months.

(7) Where a tribunal finds that a complaint under this Article is well-founded, the tribunal shall make a declaration to that effect.

(8) Without prejudice to Article 31 of the Industrial Training (Northern Ireland) Order 1984⁽¹⁾ (appeal to Court of Appeal on a point of law), an appeal shall lie to the High Court on any question of fact arising from any decision of, or arising in any proceedings before, an industrial tribunal under this Article.

(9) For the purposes of this Article and Article 30—

(1) 1984 NI 9

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) if an application for membership of a trade union has been neither granted nor rejected before the end of the period within which it might reasonably have been expected to be granted if it was to be granted, the application shall be treated as having been refused on the last day of that period; and
- (b) if under the rules of a trade union any person ceases to be a member of the union on the happening of an event specified in the rules, he shall be treated as having been expelled from the union.

(10) In this Article “union membership agreement” has the same meaning as in the No. 1 Order and any reference in this Article or Article 30 to a trade union includes a reference to a branch or section of a trade union.

(11) Any provision in an agreement shall be void in so far as it purports to exclude or limit the operation of, or to preclude any person from presenting a complaint or making an application under, this Article or Article 30; but this paragraph shall not apply to an agreement to refrain from instituting or continuing proceedings where the Agency has taken action in accordance with Article 62(2) or (5) of the No. 1 Order.