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STATUTORY INSTRUMENTS

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**1995 No. 1980**

**The Trade Union and Labour Relations  
(Northern Ireland) Order 1995**

**PART IV**

**RIGHTS IN RELATION TO TRADE UNION MEMBERSHIP**

*Right not to be unjustifiably disciplined*

**Further remedies for infringement of right**

**34.**—(1) An individual whose complaint under Article 33 has been declared to be well-founded may make an application to an industrial tribunal for one or both of the following—

- (a) an award of compensation to be paid to him by the union;
- (b) an order that the union pay him an amount equal to any sum which he has paid in pursuance of any such determination as is mentioned in Article 31(2)(b).

(2) An application under this Article shall not be entertained if made before the end of the period of four weeks beginning with the date of the declaration or after the end of the period of six months beginning with that date.

(3) The amount of compensation awarded shall, subject to the following provisions, be such as the industrial tribunal considers just and equitable in all the circumstances.

(4) In determining the amount of compensation to be awarded, the same rule shall be applied concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of Northern Ireland.

(5) Where the industrial tribunal finds that the infringement complained of was to any extent caused or contributed to by the action of the applicant, it shall reduce the amount of the compensation by such proportion as it considers just and equitable having regard to that finding.

(6) The amount of compensation calculated in accordance with paragraphs (3) to (5) shall not exceed the aggregate of—

- (a) an amount equal to 30 times the limit for the time being imposed by<sup>F1</sup> Article 23(1)(a) of the Employment Rights Order] (maximum amount of a week's pay for basic award in unfair dismissal cases), and
- (b) an amount equal to the limit for the time being imposed by<sup>F1</sup> Article 158(1)] of that Order (maximum compensatory award in such cases);

and, in a case to which paragraph (7) applies, shall not be less than the amount for the time being specified in<sup>F2</sup> Article 40(6) of this Order.

(7) This paragraph applies to a case where when the application under this Article is made—

- (a) the determination infringing the applicant's right not to be unjustifiably disciplined has not been revoked, or

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**Changes to legislation:** There are currently no known outstanding effects for the *The Trade Union and Labour Relations (Northern Ireland) Order 1995, Section 34.* (See end of Document for details)

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- (b) the union has failed to take all the steps necessary for securing the reversal of anything done for the purpose of giving effect to the determination.

<b>F1</b>	1996 NI 16
<b>F2</b>	prosp. subst. by 2004 NI 19

**Changes to legislation:**

There are currently no known outstanding effects for the The Trade Union and Labour Relations (Northern Ireland) Order 1995, Section 34.