



# Employment Act 1980

## 1980 CHAPTER 42

### *Unfair dismissal*

#### **10 Contribution in respect of compensation**

After section 76 of the 1978 Act there shall be inserted—

##### **“76A Contribution in respect of compensation.**

- (1) If in proceedings before an industrial tribunal on a complaint against an employer under section 67 the employer claims—
  - (a) that he was induced to dismiss the complainant by pressure which a trade union or other person exercised on him by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so, and
  - (b) that the pressure was exercised because the complainant was not a member of any trade union or of a particular trade union,the employer may before the hearing of the complaint require the person who he claims exercised the pressure to be joined, or in Scotland sisted, as a party to the proceedings.
- (2) Where any person has been joined, or in Scotland sisted, as a party to proceedings before an industrial tribunal by virtue of subsection (1), and the tribunal—
  - (a) makes an award of compensation under section 68(2) or 71(2) (a) or (b), but
  - (b) finds that the claim of the employer (as specified in subsection (1)) is well-founded,the tribunal may make an order requiring that person to pay to the employer a contribution in respect of that compensation.
- (3) The amount of any contribution ordered to be paid under this section in respect of any compensation shall be such as the tribunal considers to be just and equitable in the circumstances, and may constitute a complete indemnity.

**76B Indemnity in respect of union membership clauses.**

(1) If in proceedings before an industrial tribunal on a complaint against an employer under section 67 the employer claims that—

- (a) he and another person (in this section and in section 76C called "the contractor") were parties to a contract requiring that work done by employees of his for the purposes of the contract should be done only by employees who were members of trade unions or of a particular trade union,
- (b) the complainant could not, consistently with that requirement, be employed on that work,
- (c) the employer had requested the contractor to consent to the employment of the complainant on that work notwithstanding that requirement,
- (d) the contractor had withheld his consent,
- (e) apart from the work to which that requirement (or any similar requirement under other contracts to which the employer was a party) related, the employer had no work available which was suitable for the complainant to do, and
- (f) the employer would not have dismissed the complainant but for that requirement,

then, subject to subsection (2), the employer may before the hearing of the complaint require the contractor to be joined, or in Scotland sisted, as a party to the proceedings.

(2) An employer may not by virtue of this section require more than one person to be joined, or in Scotland sisted, in proceedings in respect of any complaint.

(3) Where a person has been joined, or in Scotland sisted, as a party to proceedings before an industrial tribunal by virtue of subsection (1), and the tribunal—

- (a) makes an award of compensation under section 68(2) or 71(2)(a) or (b), but
- (b) finds that the claim of the employer (as specified in subsection (1)) is well-founded,

the tribunal shall order that person to pay to the employer an amount equal to the amount of that compensation.

**76C Contribution in respect of indemnity under s. 76B.**

(1) If in the proceedings referred to in section 76B the contractor claims that he was induced to withhold the consent referred to in subsection (1) of that section by pressure which a trade union or other person exercised on him by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so, the contractor may before the hearing of the complaint require the person who he claims exercised the pressure to be joined, or in Scotland sisted, as a party to the proceedings.

(2) Where any person has been joined, or in Scotland sisted, as a party to proceedings before an industrial tribunal by virtue of subsection (1), and the tribunal—

- (a) makes an order under section 76B, but
- (b) finds that the claim of the contractor (as specified in subsection (1)) is well-founded,

the tribunal may make an order requiring that person to pay to the contractor a contribution in respect of the contractor's liability to the employer by virtue of the order under section 76B.

- (3) The amount of any contribution ordered to be paid under this section in respect of any such liability shall be such as the tribunal considers to be just and equitable in the circumstances, and may constitute a complete indemnity.”