



# Employment Act 1982 (repealed)

## 1982 CHAPTER 46

1 .....<sup>F1</sup>

### Textual Amendments

**F1** S. 1 repealed by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 29, [Sch. 1](#)

### *Unfair dismissal*

## 2 Compensation for certain dismissals.

- (1) The provisions of Schedule 1 shall have effect for the purpose of enabling the Secretary of State to make payments towards compensating individuals who in certain past cases have been dismissed for failure to conform to the requirements of a union membership agreement.
- (2) The expenses incurred by the Secretary of State in consequence of that Schedule shall be defrayed out of money provided by Parliament.

<sup>F2</sup>3 .....

### Textual Amendments

**F2** S. 3 (which was not reproduced in Statutes in Force) is repealed (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(1), 302, [Sch.1](#) (with Sch. 3 para. 2).

## 4 Basic award.

- (1) In section 73 of the 1978 Act (calculation of basic award) after subsection (4) there shall be inserted—

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*Changes to legislation: There are currently no known outstanding effects for the Employment Act 1982 (repealed). (See end of Document for details)*

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“(4A) Where the dismissal is to be regarded as unfair by virtue of section 58 or 59(a), the amount of the basic award (before any reduction under the following provisions of this section) shall not be less than £2,000.

(4B) The Secretary of State may by order increase or further increase the minimum award provided for by sub- section (4A), but no order shall be made under this subsection unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.”.

(2) The following provisions of section 73, namely—

- (a) subsection (7) (reduction of award where complainant contributed to his own dismissal, except in cases of redundancy), and
- (b) in subsection (7B) (reduction of award where justified by complainant’s conduct, other than conduct taken into account under subsection (7)) the words from “other” to “subsection (7)”,

shall cease to have effect ; and after subsection (7B) there shall be added—

“(7C) Subsection (7B) shall not apply where the reason or principal reason for the dismissal was that the employee was redundant unless the dismissal is to be regarded as unfair by virtue of section 59(a), and in that event shall apply only to so much of the basic award as is payable because of subsection (4A).”.

**Modifications etc. (not altering text)**

- C1** The text of s. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**5 New special award.**

(1) In section 71(2)(b) of the 1978 Act (additional compensation to be awarded where order under section 69 not complied with unless it was not practicable for the employer to comply) for the word “unless” there shall be substituted the words “except in a case in which the dismissal is to be regarded as unfair by virtue of section 58 or 59(a) or in which”.

(2) For section 72 of the 1978 Act (which provides that compensation for unfair dismissal shall consist of a basic award and a compensatory award) there shall be substituted—

**“72 Compensation for unfair dismissal.**

Where a tribunal makes an award of compensation for unfair dismissal under section 68(2) or 71(2)(a) the award shall consist of—

- (a) a basic award (calculated in accordance with section 73), and
- (b) a compensatory award (calculated in accordance with section 74), and
- (c) where the dismissal is to be regarded as unfair by virtue of section 58 or 59(a), a special award (calculated in accordance with section 75A) ;

but paragraph (c) shall not apply unless the complainant requested the tribunal to make an order under section 69, and shall not in any event apply in a case within section 73(2).”.

(3) After section 75 of the 1978 Act there shall be inserted—

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### **“75A Calculation of special award.**

- (1) Subject to the following provisions of this section, the amount of the special award shall be—
  - (a) one week’s pay multiplied by 104, or
  - (b) £10,000,whichever is the greater, but shall not exceed £20,000.
- (2) If the award of compensation is made under section 71(2)(a) then, unless the employer satisfies the tribunal that it was not practicable to comply with the preceding order under section 69, the amount of the special award shall be increased to—
  - (a) one week’s pay multiplied by 156, or
  - (b) £15,000,whichever is the greater, but subject to the following provisions of this section.
- (3) In a case where the amount of the basic award is reduced under section 73(5), the amount of the special award shall be reduced by the same fraction.
- (4) Where the tribunal considers that any conduct of the complainant before the dismissal (or, where the dismissal was with notice, before the notice was given) was such that it would be just and equitable to reduce or further reduce the amount of the special award to any extent, the tribunal shall reduce or further reduce that amount accordingly.
- (5) Where the tribunal finds that the complainant has unreasonably—
  - (a) prevented an order under section 69 from being complied with; or
  - (b) refused an offer by the employer (made otherwise than in compliance with such an order) which if accepted would have the effect of reinstating the complainant in his employment in all respects as if he had not been dismissed;the tribunal shall reduce or further reduce the amount of the special award to such extent as it considers just and equitable having regard to that finding.
- (6) Where the employer has engaged a permanent replacement for the complainant, the tribunal shall not take that fact into account in determining, for the purposes of subsection (2), whether it was practicable to comply with an order under section 69 unless the employer shows that it was not practicable for him to arrange for the complainant’s work to be done without engaging a permanent replacement.
- (7) The Secretary of State may by order increase any of the sums of £10,000, £20,000 and £15,000 specified in subsections (1) and (2), or any of those sums as from time to time increased under this subsection, but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.”.

#### **Modifications etc. (not altering text)**

- C2** The text of s. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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## 6 Reduction of compensation: matters to be disregarded.

After section 72 of the 1978 Act there shall be inserted the following section—

### “72A Reduction of compensation: matters to be disregarded.

- (1) This section applies in any case where a tribunal makes an award of compensation for unfair dismissal under section 68(2) or 71(2)(a) and the dismissal is to be regarded as unfair by virtue of section 58 or 59(a).
- (2) In such a case the tribunal, in considering whether it would be just and equitable to reduce, or further reduce, the amount of any part of the award, shall disregard any conduct or action of the complainant in so far as it constitutes
  - (a) a breach, or proposed breach, of any requirement falling within subsection (3);
  - (b) a refusal, or proposed refusal, to comply with a requirement of a kind mentioned in section 58(13)(a) ; or
  - (c) an objection, or proposed objection, (however expressed) to the operation of a provision of a kind mentioned in section 58(13)(b).
- (3) A requirement falls within this subsection if it is imposed on the complainant in question by or under any arrangement or contract of employment or other agreement and requires him—
  - (a) to be or become a member of any trade union or of a particular trade union or of one of a number of particular trade unions ;
  - (b) to cease to be, or refrain from becoming, a member of any trade union or of a particular trade union or of one of a number of particular trade unions; or
  - (c) not to take part in the activities of any trade union or of a particular trade union or of one of a number of particular trade unions.”.

#### Modifications etc. (not altering text)

- C3** The text of s. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 7 Awards against third parties.

For section 76A of the 1978 Act (contribution in respect of compensation) there shall be substituted—

### “76A Awards against third parties

- (1) If in proceedings before an industrial tribunal on a complaint against an employer under section 67 either the employer or the complainant claims—
  - (a) that the employer was induced to dismiss the complainant by pressure which a trade union or other person exercised on the employer by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so, and

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- (b) that the pressure was exercised because the complainant was not a member of any trade union or of a particular trade union or of one of a number of particular trade unions,  
the employer or the complainant may request the tribunal to direct that the person who he claims exercised the pressure be joined, or in Scotland sisted, as a party to the proceedings.
- (2) A request under subsection (1) shall be granted if it is made before the hearing of the complaint begins, but may be refused if it is made after that time ; and no such request may be made after the tribunal has made an award under section 68(2) of an order under section 69.
- (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 mentioned in subsection (1) is well-founded,  
the award may be made against that person instead of against the employer, or partly against that person and partly against the employer, as the tribunal may consider just and equitable in the circumstances.”.

**Modifications etc. (not altering text)**

- C4** The text of s. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**8 Interim relief.**

- (1) For subsection (1) of section 77 of the 1978 Act (interim relief where employee alleges unfair dismissal for union membership or activities) there shall be substituted—
- “(1) An employee who presents a complaint to an industrial tribunal under section 67 alleging that the dismissal is to be regarded as unfair by virtue of section 58 may apply to the tribunal for an order under the following provisions of this section.”.
- (2) In subsection (3) of section 77 for the words from “,at least” onwards there shall be substituted “give at the appropriate time—
- (a) to the employer ; and
- (b) in the case of a section 76A request made at least three days before the date of the hearing, to the person to whom the request relates ;
- a copy of the application and certificate (if any) together with notice of the date, time and place of the hearing.
- (3A) In subsection (3)— “appropriate time” means—
- (a) in relation to paragraph (a), not later than seven days before the date of the hearing;
- (b) in relation to paragraph (b), as soon as reasonably practicable; and “section 76A request” means a request made under section 76A(1) for the tribunal to direct a person to be joined or sisted as a party to the proceedings.”.

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**Modifications etc. (not altering text)**

**C5** The text of s. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**9 Dismissal in connection with strike or other industrial action.**

(1) Section 62 of the 1978 Act (dismissal in connection with a lock-out, strike or other industrial action) shall be amended in accordance with subsections (2) to (4) below.

(2) In subsection (2), for paragraph (b) there shall be substituted—

“(b) that any such employee has, before the expiry of the period of three months beginning with that employee date of dismissal, been offered re-engagement and that the complainant has not been offered re-engagement.”.

(3) In subsection (4)(b) for sub-paragraph (ii) there shall be substituted—

“(ii) in relation to a strike or other industrial action, those employees at the establishment who were taking part in the action at the complainant’s date of dismissal;

“establishment”, in sub-paragraph (ii), meaning that establishment of the employer at or from which the complainant works; and”.

(4) In subsection (1), after the words “an employee” there shall be inserted the words “(the “complainant”)” ; and in subsections (1)(b) and (3) for the word “employee” there shall be substituted, in each case, the word “complainant”.

(5) In section 67 of the 1978 Act (complaint to industrial tribunal) for subsection (3) there shall be substituted—

“(3) Subsection (2) shall apply in relation to a complaint to which section 62(3) applies as if—

- (a) for the references to three months there were substituted, in each case, a reference to six months and
- (b) as if for the reference to the effective date of termination there were substituted a reference to the complainant’s date of dismissal (within the meaning of section 62(4)).”.

**Modifications etc. (not altering text)**

**C6** The text of s. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Action short of dismissal*

**10 Action relating to trade union membership.**

(1) ..... F3

(3) After subsection (1) of that section there shall be inserted—

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“(1A) Every employee shall also have the right not to have action (short of dismissal) taken against him for the purpose of enforcing a requirement (whether or not imposed by his contract of employment or in writing) that, in the event of his failure to become or his ceasing to remain a member of any trade union or of a particular trade union or of one of a number of particular trade unions, he must make one or more payments.

(1B) For the purposes of this section, any deduction made by an employer from the remuneration payable to an employee of his in respect of that employee’s employment shall, if the deduction is attributable to the employee’s failure to become or his ceasing to remain a member of any trade union or of a particular trade union or of one of a number of particular trade unions, be treated as if it were action (short of dismissal) taken against the employee for the purpose of enforcing a requirement of a kind mentioned in subsection (1A).”.

(4) In subsection (1)(c) of that section, for the words “ a trade union ” there shall be substituted the words “any trade union or of a particular trade union or of one of a number of particular trade unions”.

#### Textual Amendments

**F3** S. 10(1)(2) repealed by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), s. 33(2), [Sch. 4](#)

#### Modifications etc. (not altering text)

**C7** The text of ss. 10(3)(4), 11, 18(1)–(6), 19 and 21(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 11 Awards against third parties

For section 26A of the 1978 Act (contribution in respect of compensation) there shall be substituted—

### “26A Awards against third parties.

(1) Where—

- (a) a complaint is presented to an industrial tribunal under section 24 on the ground that action has been taken against the complainant by his employer for the purpose of compelling him to be or become a member of any trade union or of a particular trade union or of one of a number of particular trade unions, and
- (b) either the employer or the complainant claims in proceedings before the tribunal that the employer was induced to take the action by pressure which a trade union or other person exercised on the employer by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so,

the employer or the complainant may request the tribunal to direct that the person who he claims exercised the pressure be joined, or in Scotland sisted, as a party to the proceedings.

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- (2) A request under subsection (1) shall be granted if it is made before the hearing of the complaint begins, but may be refused if it is made after that time; and no such request may be made after the tribunal has made a declaration under section 24(3).
- (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, but
  - (b) finds that the claim mentioned in subsection (1) is well-founded,
- the award may be made against that person instead of against the employer, or partly against that person and partly against the employer, as the tribunal may consider just and equitable in the circumstances.”.

**Modifications etc. (not altering text)**

- C8** The text of ss. 10(3)(4), 11, 18(1)–(6), 19 and 21(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Union membership or recognition requirements in contracts*

**12 Prohibition on union membership requirements.**

- (1) Any term or condition of a contract for the supply of goods or services is void in so far as it purports—
- (a) to require that the whole, or some part, of the work done for the purposes of the contract is to be done only by persons who are not members of trade unions or not members of a particular trade union; or
  - (b) to require that the whole, or some part, of such work is to be done only by persons who are members of trade unions or members of a particular trade union.
- (2) A person contravenes this subsection if, on the ground of union membership, he—
- (a) fails, in a case where he maintains (in whatever form) a list of approved suppliers of goods or services or a list of persons from whom tenders for the supply of goods or services may be invited to include the name of a particular person in that list;
  - (b) terminates a contract for the supply of goods or services; or
  - (c) does, in relation to a proposed contract for the supply of goods or services, any of the acts mentioned in subsection (3) below.
- (3) The acts are—
- (a) excluding a particular person from the group of persons from whom tenders for the supply of the goods or services are invited;
  - (b) failing to permit a particular person to submit such a tender;
  - (c) otherwise determining not to enter into a contract with a particular person for the supply of the goods or services.
- (4) For the purposes of subsection (2)(a) above a person (the “first person”) fails to include the name of another person (the “supplier”) in a list, on the ground of union



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membership, if the ground, or one of the grounds, for failing to include his name is either—

- (a) that if the supplier were to enter into a contract with the first person for the supply of goods or services work to be done for the purposes of the contract would, or would be likely to, be done by persons who were not members of trade unions or of a particular trade union; or
  - (b) that if the supplier were to enter into such a contract work to be done for the purposes of the contract would, or would be likely to, be done by persons who were members of trade unions or of a particular trade union.
- (5) For the purposes of subsection (2)(b) above, a person terminates a contract on the ground of union membership if the ground, or one of the grounds, for terminating it is either—
- (a) that work done, or to be done, for the purposes of the contract has been, or is likely to be, done by persons who are not members of trade unions or of a particular trade union; or
  - (b) that work done, or to be done, for the purposes of the contract has been, or is likely to be, done by persons who are members of trade unions or of a particular trade union.
- (6) For the purposes of subsection (2)(c) above, a person does an act on the ground of union membership if the ground, or one of the grounds, on which he does that act is either—
- (a) that, if the proposed contract were entered into with the person referred to in subsection (3) above, work to be done for the purposes of the contract would, or would be likely to, be done by persons who are not members of trade unions or of a particular trade union; or
  - (b) that, if the proposed contract were entered into with that person, work to be done for the purposes of the contract would, or would be likely to, be done by persons who are members of trade unions or of a particular trade union.
- (7) Subsection (2) above does not create an offence but the obligation to comply with it is a duty owed to each of the following—
- (a) in a case falling within subsection (2)(a) above, the person referred to in subsection (4) as the supplier;
  - (b) in a case falling within subsection (2)(b) above, any other party to the contract;
  - (c) in a case falling within subsection (2)(c) above, the person referred to in subsection (3) above; and
  - (d) in any case, any other person who may be adversely affected by its contravention;

and any breach of that duty shall be actionable accordingly (subject to the defences and other incidents applying to actions for breach of statutory duty).

**Modifications etc. (not altering text)**

**C9** Ss. 12, 13 amended by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), s. 30(2)

### 13 Prohibition on union recognition requirements.

- (1) Any term or condition of a contract for the supply of goods or services is void in so far as it purports to require any party to the contract—

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- (a) to recognise one or more trade unions (whether or not named in the contract) for the purpose of negotiating on behalf of workers, or any class of worker, employed by him; or
  - (b) to negotiate or consult with, or with any official of, one or more trade unions (whether or not so named).
- (2) A person contravenes this subsection if, on the ground of union exclusion, he acts in a manner falling within paragraph (a), (b) or (c) of section 12(2) of this Act.
- (3) For the purposes of subsection (2) above, a person acts on the ground of union exclusion if the ground or one of the grounds for his action is that the person against whom it is taken does not, or is not likely to, recognise, negotiate or consult as mentioned in subsection (1) above.
- (4) Subsection (2) above does not create an offence but the obligation to comply with it is a duty owed to each of the following—
- (a) the person against whom the action is taken; and
  - (b) any other person who may be adversely affected by the contravention,
- and any breach of that duty shall be actionable accordingly (subject to the defences and other incidents applying to actions for breach of statutory duty).

**Modifications etc. (not altering text)**

**C10** Ss. 12, 13 amended by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), s. 30(2)

**14 Pressure to impose union membership or recognition requirements.**

- (1) Nothing in section 13 of the 1974 Act shall prevent an act being actionable in tort in any case where a person induces, or attempts to induce, another—
- (a) to incorporate in a contract to which that other person is a party, or proposed contract to which that other person intends to be a party, any term or condition which is, or would be, void by virtue of section 12(1) or 13(1) of this Act; or
  - (b) to contravene section 12(2) or 13(2);
- and the act constitutes, or is one of a number of acts which together constitute, the inducement or attempted inducement.
- (2) Nothing in section 13 of the 1974 Act shall prevent an act which interferes with the supply (whether or not under a contract) of goods or services, or can reasonably be expected to have such an effect, being actionable in tort in any case where subsection (3) below is satisfied and one of the facts relied upon for the purpose of establishing liability is that any person has—
- (a) induced another to break a contract of employment or interfered or induced another to interfere with its performance; or
  - (b) threatened that a contract of employment under which he or another is employed will be broken or its performance interfered with, or that he will induce another to break a contract of employment or to interfere with its performance.
- [<sup>F4</sup>(3) This subsection is satisfied if—
- (a) the supplier of the goods or services is not the employer under the contract of employment mentioned in subsection (2) above; and

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- (b) the reason, or one of the reasons, for which the act is done is the fact or belief that the supplier does not, or that the supplier might not, recognise, negotiate or consult as mentioned in section 13.]

#### Textual Amendments

- F4** S. 14(3) substituted for s. 14(3)(4) by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), s. 33(1), [Sch. 3 Pt. I para. 4](#)

### *Trade disputes*

## **15 Actions in tort against trade unions and employers' associations.**

- (1) Section 14 of the 1974 Act (immunity for trade unions and employers' associations from certain actions in tort) shall cease to have effect.
- (2) Where proceedings in tort are brought against a trade union—
- (a) on a ground specified in paragraph (a) or (b) of section 13(1) of the 1974 Act; or
  - (b) in respect of an agreement or combination by two or more persons to do or to procure the doing of an act which, if it were done without any such agreement or combination, would be actionable in tort on such a ground;
- then, for the purpose of determining in those proceedings whether the union is liable in respect of the act in question, that act shall be taken to have been done by the union if, but only if, [<sup>F5</sup>it is to be taken, in accordance with the following provisions, to have been authorised or endorsed by the union].
- [<sup>F6</sup>(3) An act shall be taken to have been authorised or endorsed by a trade union if it was done, or was authorised or endorsed—
- (a) by any person empowered by the rules to do, authorise or endorse acts of the kind in question, or
  - (b) by the principal executive committee or the president or general secretary, or
  - (c) by any other committee of the union or any other official of the union (whether employed by it or not).
- (3A) For the purposes of paragraph (c) of subsection (3)—
- (a) any group of persons constituted in accordance with the rules of the union is a committee of the union; and
  - (b) an act shall be taken to have been done, authorised or endorsed by an official if it was done, authorised or endorsed by, or by any member of, any group of persons of which he was at the material time a member, the purposes of which included organising or co-ordinating industrial action.
- (3B) The provisions of paragraphs (b) and (c) of subsection (3) apply notwithstanding anything in the rules of the union, or in any contract or rule of law, but subject as follows.]
- [<sup>F7</sup>(4) An act shall not be taken to have been authorised or endorsed by the union by virtue only of paragraph (c) of subsection (3) if it was repudiated by the principal executive committee or the president or general secretary as soon as reasonably practicable after coming to the knowledge of any of them.]

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[<sup>F8</sup>(5) Where an act is repudiated—

- (a) written notice of the repudiation must be given to the committee or official in question, without delay, and
- (b) the union must do its best to give individual written notice of the fact and date of repudiation, without delay—
  - (i) to every member of the union who the union has reason to believe is taking part, or might otherwise take part, in industrial action as a result of the act, and
  - (ii) to the employer of every such member.

(5A) The notice given to members in accordance with paragraph (b)(i) of subsection (5) must contain the following statement—

“ Your union has repudiated the call (or calls) for industrial action to which this notice relates and will give no support to unofficial industrial action taken in response to it (or them). If you are dismissed while taking unofficial industrial action, you will have no right to complain of unfair dismissal. ”

(5B) If subsection (5) or (5A) is not complied with, the repudiation shall be treated as ineffective.]

(6) An act shall not be treated as repudiated . . . <sup>F9</sup> if at any time after the union concerned purported to repudiate it the principal executive committee or president or general secretary has behaved in a manner which is inconsistent with the purported repudiation.

[<sup>F10</sup>(6A) The principal executive committee, president or general secretary shall be treated as so behaving if, on a request made to any of them within three months of the purported repudiation by a person who—

- (a) is a party to a commercial contract whose performance has been or may be interfered with as a result of the act in question, and
- (b) has not been given written notice by the union of the repudiation, it is not forthwith confirmed in writing that the act has been repudiated.]

(7) In this section—

[<sup>F11</sup> “commercial contract” means any contract other than—

- (a) a contract of service or apprenticeship, or
- (b) any other contract under which a person agrees personally to do work or perform services for another;]

“general secretary” means the official of the union concerned who holds the office of general secretary or, where there is no such office, who holds the office which is equivalent, or the nearest equivalent, to that of general secretary;

..... <sup>F12</sup>

“president” means the official of the union concerned who holds the office of president or, where there is no such office, who holds the office which is equivalent, or the nearest equivalent, to that of president;

“principal executive committee” means the principal committee of the union concerned exercising executive functions, by whatever name it is known;

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“rules” means the written rules of the union and any other written provisions forming part of the contract between a member and the other members (or, in the case of a special register body, between a member and the body).

- (8) Where, for the purpose of any proceedings, an act is by virtue of this section taken to have been done by a trade union nothing in this section shall affect the liability of any other person in those or any other proceedings in respect of that act.
- [<sup>F13</sup>(9) In proceedings arising out of an act which is by virtue of this section taken to have been done by a trade union, the power of the court to grant an injunction or interdict includes power to require the union to take such steps as the court considers appropriate for ensuring—
- (a) that there is no, or no further, inducement of persons to take part or to continue to take part in industrial action, and
  - (b) that no person engages in any conduct after the granting of the injunction or interdict by virtue of having been induced before it was granted to take part or to continue to take part in industrial action;

and the provisions of this section apply in relation to proceedings for failure to comply with any such injunction or interdict as they apply in relation to the original proceedings.]

#### Textual Amendments

- F5** Words substituted by [Employment Act 1990 \(c. 38, SIF 43:5\), s. 6\(2\)](#)
- F6** [S. 15\(3\)–\(3B\)](#) substituted for s. 15(3) by [Employment Act 1990 \(c. 38, SIF 43:5\), s. 6\(3\)](#)
- F7** [S. 15\(4\)](#) substituted by [Employment Act 1990 \(c. 38, SIF 43:5\), s. 6\(4\)](#)
- F8** [S. 15\(5\)–\(5B\)](#) substituted for s. 15(5) by [Employment Act 1990 \(c. 38, SIF 43:5\), s. 6\(5\)](#)
- F9** Words repealed by [Employment Act 1990 \(c. 38, SIF 43:5\), s. 16\(2\), Sch. 3](#) (subject as mentioned in [S.I. 1990/2378, art. 6\(c\)](#))
- F10** [S. 15\(6A\)](#) inserted by [Employment Act 1990 \(c. 38, SIF 43:5\), s. 6\(6\)](#)
- F11** Definition inserted by [Employment Act 1990 \(c. 38, SIF 43:5\), s. 6\(7\)](#)
- F12** Definitions repealed by [Employment Act 1990 \(c. 38, SIF 43:5\), ss. 6\(7\), 16\(2\), Sch. 3](#) (subject as mentioned in [S.I. 1990/2378, art. 6\(c\)](#))
- F13** [S. 15\(9\)](#) added by [Employment Act 1990 \(c. 38, SIF 43:5\), s. 6\(8\)](#)

## 16 Limit on damages awarded against trade unions in actions in tort.

- (1) Subject to subsection (2) below, in any proceedings in tort brought against a trade union the amount which may be awarded against the union by way of damages in those proceedings shall not exceed the appropriate limit.
- (2) Subsection (1) above does not apply to any proceedings—
- (a) for any of the following resulting in personal injury to any person, that is to say negligence, nuisance or breach of duty; or
  - (b) without prejudice to paragraph (a) above, for breach of duty in connection with the ownership, occupation, possession, control or use of property (whether real or personal or, in Scotland, heritable or moveable)
- [<sup>F14</sup>or to any proceedings by virtue of Part I of the Consumer Protection Act 1987 (product liability).]
- (3) The appropriate limit is—

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- (a) £10,000, if the union has less than 5,000 members;
  - (b) £50,000, if it has 5,000 or more members but less than 25,000 members;
  - (c) £125,000, if it has 25,000 or more members but less than 100,000 members;
  - and
  - (d) £250,000, if it has 100,000 or more members.
- (4) The Secretary of State may by order vary any of the sums for the time being specified in subsection (3) above.
- (5) An order under subsection (4) above—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and
  - (b) may make such transitional provision as the Secretary of State considers appropriate.
- (6) In this section—
- “duty” means a duty imposed by any rule of law or by or under any enactment; and
  - “personal injury” includes any disease and any impairment of a person’s physical or mental condition.
- (7) For the purposes of this section, in any case where a trade union consists wholly or mainly of organisations or representatives of organisations, the members of such of those organisations as have their head or main office in Great Britain shall be treated as members of the union.

#### Textual Amendments

**F14** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 48(1), [Sch. 4 para. 8](#)

### 17 Recovery of sums awarded in proceedings involving trade unions and employers’ associations.

- (1) Where in any proceedings an amount is awarded by way of damages, costs or expenses—
- (a) against a trade union or employers’ association;
  - (b) against trustees in whom property is vested in trust for a trade union or employers’ association, in their capacity as such and otherwise than in respect of a breach of trust on their part; or
  - (c) against members or officials of a trade union or employers’ association on behalf of themselves and all of the members of the union or association;
- no part of that amount shall be recoverable by enforcement against any protected property.
- (2) In this section “protected property” means any property—
- (a) belonging to the trustees concerned otherwise than in their capacity as such;
  - (b) belonging to any member of the union or association concerned otherwise than jointly or in common with the other members;
  - (c) belonging to any official of the union or association concerned who is neither a member nor such a trustee;
  - (d) comprised in a political fund of the union concerned; or

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- (e) comprised in a provident benefits fund of the union concerned.
- (3) In subsection (2) above—(2 & 3 Geo. 5).

“political fund” means a fund which is a political fund for the purposes of section 3 of the <sup>M1</sup>Trade Union Act 1913 and which is (and was at the time when the act in respect of which the proceedings are brought was done) subject to rules of the union which prevent property which is or has been comprised in the fund from being used for financing strikes or other industrial action;

“provident benefits” includes any payment, expressly authorised by the rules of the union, which is made to a member during sickness or incapacity from personal injury or while out of work, or to an aged member by way of superannuation, or to a member who has met with an accident or has lost his tools by fire or theft, and includes a payment in discharge or aid of funeral expenses on the death of a member or the wife of a member, or as provision for the children of a deceased member; and

“provident benefits fund” means a separate fund which is maintained in accordance with the rules of the union for the purpose only of providing provident benefits.

#### Marginal Citations

M1 1913 c. 30

## 18 Meaning of “trade dispute”.

- (1) Section 29 of the 1974 Act (meaning of “trade disputes”) shall be amended as follows.
- (2) In the opening words of subsection (1) (which define a “trade dispute” by reference to the parties to the dispute and its connection with certain matters)—
- (a) for “between employers and workers” there shall be substituted “between workers and their employer” ;
- (b) the words “, or between workers and workers,” shall be omitted; and
- (c) for “is connected with” there shall be substituted “relates wholly or mainly to”.
- (3) In subsection (2) (which extends the definition to certain disputes with a Minister of the Crown who does not employ the workers in question) for “employer and those workers” there shall be substituted “those workers and their employer”.
- (4) In subsection (3) (which extends the definition to disputes relating to matters occurring outside Great Britain) for “occurring outside Great Britain” there is substituted “occurring outside the United Kingdom, so long as the person or persons whose actions in the United Kingdom are said to be in contemplation or furtherance of a trade dispute relating to matters occurring outside the United Kingdom are likely to be affected in respect of one or more of the matters specified in subsection (1) of this section by the outcome of that dispute”.
- (5) Subsection (4) (which provides that a dispute with a trade union or employers’ association is necessarily to be treated as a dispute to which workers or, as the case may be, employers are a party) shall be omitted.
- (6) In subsection (6) for the definition of “worker” there is substituted—

““worker” , in relation to a dispute with an employer, means—

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- (a) a worker employed by that employer<sup>7</sup>, or
  - (b) a person who has ceased to be employed by that employer where—
    - (i) his employment was terminated in connection with the dispute ; or
    - (ii) the termination of his employment was one of the circumstances giving rise to the dispute.”.
- (7) The amendments made by this section do not affect the question whether an act done by a person is done by him in contemplation or furtherance of a dispute, whether he is a party to the dispute or not.

**Modifications etc. (not altering text)**

**C11** The text of ss. 10(3)(4), 11, 18(1)–(6), 19 and 21(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**19 Amendment of sections 13 and 30 of the 1974 Act.**

- (1) In section 13 of the 1974 Act (acts in contemplation or furtherance of trade disputes) subsection (2) shall cease to have effect.
- (2) In section 30 of the 1974 Act (interpretation), in the translation of “tort” as respects Scotland, for the words from “any” to “reparation” there shall be substituted the word “delict”.

**Modifications etc. (not altering text)**

**C12** The text of ss. 10(3)(4), 11, 18(1)–(6), 19 and 21(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Periods of continuous employment*

**20 Change of basis of computation of period of continuous employment.**

- (1) The amendments set out in Schedule 2 shall have effect for the following purposes—
  - (a) amending enactments which confer rights by reference to the length of an employee’s period of continuous employment so as to substitute for periods expressed in weeks or years of fifty-two weeks corresponding periods expressed in months or years of twelve months;
  - (b) modifying the computation of an employee’s period of continuous employment under Schedule 13 to the 1978 Act so as to provide for computing the length of the period in months and years of twelve months;
  - (c) making minor and consequential amendments in connection with the purposes mentioned in paragraphs (a) and (b).
- (2) The amendments set out in Schedule 2 shall not apply—



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- (a) where the date by reference to which the length of an employee's period of continuous employment falls to be ascertained ("the qualification date") is before the commencement of this section, or
  - (b) where the result would be to deprive a person of any right or entitlement which he would have had if the qualification date had fallen immediately before the commencement of this section.
- (3) Subject to subsection (2), the amendments set out in Schedule 2 shall, so far as they relate to the computation of the length of a period of continuous employment, apply to periods before the commencement of this section as they apply to later periods.
- (4) Nothing in this section shall affect—
- (a) any order made before the commencement of this section under section 18, 65 or 96 of the 1978 Act or any corresponding earlier enactment (exclusion of certain sections where equivalent protection afforded by collective agreement or wages order); or
  - (b) the operation of any agreement or wages order to which such an order relates or the operation of any provision of the 1978 Act in relation to such an agreement or wages order.

### *Supplemental*

## **21 Interpretation, minor and consequential amendments and repeals.**

- (1) In this Act—
- “the 1974 Act” means the Trade Union and Labour Relations Act 1974;
  - “the 1975 Act” means the Employment Protection Act 1975;
  - “the 1976 Act” means the Trade Union and Labour Relations (Amendment) Act 1976;
  - “the 1978 Act” means the Employment Protection (Consolidation) Act 1978;
  - “the 1980 Act” means the Employment Act 1980;
  - “employers' association”, “official” (in relation to a trade union), “special register body”, “tort” (as respects Scotland), “trade union” and “worker” have the same meanings as in the 1974 Act.
- (2) Schedule 3 to this Act (which makes minor and consequential amendments) shall have effect.
- (3) The enactments mentioned in Schedule 4 to this Act are hereby repealed to the extent set out in the third column.

### **Modifications etc. (not altering text)**

**C13** The text of ss. 10(3)(4), 11, 18(1)–(6), 19 and 21(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## **22 Short title, commencement and extent.**

- (1) This Act may be cited as the Employment Act 1982.

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- (2) This Act, except section 2 and Schedule 1, shall not come into operation until such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be so appointed for different purposes.
- (3) An order under this section may contain such transitional and supplemental provisions as appear to the Secretary of State to be necessary or expedient.
- (4) Without prejudice to subsection (3) above—
  - (a) an order under this section bringing section 3 above into operation may provide that, for such period as may be specified in the order, section 58 of the 1978 Act (as substituted by section 3) shall have effect as if section 58(3) (c) applied only to a union membership agreement taking effect in relation to the employees in question after 14th August 1980; and
  - (b) an order under this section bringing section 10 above into operation may make corresponding provision in respect of section 23(2B) of the 1978 Act (as substituted by section 10(2) above).
- (5) Paragraph 13(4) of Schedule 3 to this Act shall extend to Northern Ireland, but otherwise this Act shall not extend there.

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**Modifications etc. (not altering text)**

**C14** Power of appointment conferred by s. 22(2) fully exercised: [S.I. 1982/1656](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Employment Act 1982 (repealed).