



Employment Act 1988

1988 CHAPTER 19

PART I

TRADE UNIONS

Rights of trade union members

4 Complaint of infringement of right under section 3

- (1) An individual who claims that he has been unjustifiably disciplined by a trade union may present a complaint against the union to an industrial tribunal that his right under section 3 above has been infringed.
- (2) A tribunal shall not entertain a complaint presented by any individual against a trade union under this section unless it is presented to the tribunal before the end of the period of three months beginning with the date of the making of the determination which the individual claims constituted an infringement of his right or within such further period as the tribunal considers reasonable in a case where it is satisfied as to one or both of the matters mentioned in subsection (3) below.
- (3) The matters referred to in subsection (2) above are—
 - (a) that it was not reasonably practicable for the complaint to be presented before the end of the period of three months; and
 - (b) that any delay in the making of the complaint is wholly or partly attributable to any reasonable attempt, otherwise than under this section, to appeal against the determination to which the complaint relates or to have that determination reconsidered or reviewed.
- (4) Where, on a complaint presented by any individual against a trade union under this section, the tribunal finds that that individual has been unjustifiably disciplined by that union, the tribunal shall make a declaration that the complaint is well-founded.
- (5) An appeal shall lie to the Employment Appeal Tribunal on any question of law arising from any decision of, or arising in any proceedings before, an industrial tribunal under this section.

Status: This is the original version (as it was originally enacted).

- (6) Where an individual who is, or is seeking to be, in employment to which section 4 of the Employment Act 1980 applies (employment governed by a union membership agreement) is refused membership of, or is expelled from, a trade union in pursuance of a determination which constitutes an infringement of his right under section 3 above—
- (a) that individual shall not be entitled to present any complaint under this section in respect of that determination; but
 - (b) the refusal or expulsion shall be regarded as unreasonable for the purposes of the said section 4 (unreasonable exclusion or expulsion from a trade union in a case where a person is, or is seeking to be, in employment to which that section applies).
- (7) Any provision in an agreement shall be void in so far as it purports—
- (a) to exclude or limit the right conferred by section 3 above or the operation of this section or section 5 below; or
 - (b) to preclude any individual from presenting a complaint under this section or from making an application under section 5 below;
- but this subsection shall not apply to an agreement to refrain from instituting or continuing proceedings where a conciliation officer has taken action in accordance with section 133(2) or (3) of the 1978 Act (conciliation).