Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART III

RIGHTS IN RELATION TO UNION MEMBERSHIP AND ACTIVITIES

[F1 Detriment]

146 [F1 Detriment] on grounds related to union membership or activities.

(1) [F2 A worker] has the right not to [F3 be subjected to any detriment as an individual by any act, or any deliberate failure to act, by his employer if the act or failure takes place] for [F4 the sole or main purpose] of—

(a) preventing or deterring him from being or seeking to become a member of an independent trade union, or penalising him for doing so,

(b) preventing or deterring him from taking part in the activities of an independent trade union at an appropriate time, or penalising him for doing so, F5 . . .

[F6 (ba) preventing or deterring him from making use of trade union services at an appropriate time, or penalising him for doing so, or]

(c) 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.

(2) In subsection [F7 (1)] "an appropriate time" means—

(a) a time outside the [F8 worker's] working hours, or

(b) a time within his working hours at which, in accordance with arrangements agreed with or consent given by his employer, it is permissible for him to take part in the activities of a trade union [F9 or (as the case may be) make use of trade union services];

and for this purpose "working hours", in relation to [F10 a worker], means any time when, in accordance with his contract of employment [F11 (or other contract personally to do work or perform services)], he is required to be at work.

Changes to legislation: *Trade Union and Labour Relations (Consolidation) Act 1992, Section 146 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[[F12](2A) In this section—

(a) "trade union services" means services made available to the worker by an independent trade union by virtue of his membership of the union, and

(b) references to a worker's "making use" of trade union services include his consenting to the raising of a matter on his behalf by an independent trade union of which he is a member.

(2B) If an independent trade union of which a worker is a member raises a matter on his behalf (with or without his consent), penalising the worker for that is to be treated as penalising him as mentioned in subsection (1)(ba).

(2C) A worker also has the right not to be subjected to any detriment as an individual by any act, or any deliberate failure to act, by his employer if the act or failure takes place because of the worker's failure to accept an offer made in contravention of section 145A or 145B.

(2D) For the purposes of subsection (2C), not conferring a benefit that, if the offer had been accepted by the worker, would have been conferred on him under the resulting agreement shall be taken to be subjecting him to a detriment as an individual (and to be a deliberate failure to act).**]**

(3) **[**[F2]A worker**]** also has the right not to **[**[F13]be subjected to any detriment as an individual by any act, or any deliberate failure to act, by his employer if the act or failure takes place**]** for **[**[F4]the sole or main purpose**]** of enforcing a requirement (whether or not imposed by **[**[F14]a contract of employment**]** or in writing) that, in the event of his not being 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.

(4) For the purposes of subsection (3) any deduction made by an employer from the remuneration payable to **[**[F10]a worker**]** in respect of his employment shall, if it is attributable to his not being 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 **[**[F15]a detriment to which he has been subjected as an individual by an act of his employer taking place**]** for **[**[F4]the sole or main purpose**]** of enforcing a requirement of a kind mentioned in that subsection.

(5) **[**[F16]A worker or former worker**]** may present a complaint to an industrial tribunal on the ground that **[**[F17]he has been subjected to a detriment**]**by his employer in contravention of this section.

[[F18](5A) This section does not apply where—

(a) the worker is an employee; and

(b) the detriment in question amounts to dismissal.**]**

Textual Amendments

F1 Words in s. 146 sidenote substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 30(7)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F2 Words in s. 146(1)(3) substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 30(2)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F3 Words in s. 146(1) substituted (25.20.1999) by 1999 c. 26, s.1, Sch. 2 paras. 1, **2(1)(2)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 1)

F4 Words in s. 146(1)(3)(4) substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 8**; S.I. 2004/2566, **art. 3(b)** (with arts. 4-8)

***Changes to legislation:** Trade Union and Labour Relations (Consolidation) Act 1992, Section 146 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F5 Word in s. 146(1)(b) repealed (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 31(2), 57(2), 59(2)-(4), **Sch. 2**; S.I. 2004/2566, **art. 3(a)(c)** (with arts. 4-8)

F6 S. 146(1)(ba) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 31(2)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F7 Words in s. 146(2) substituted (1.10.2004) by Employment Relations Act 2004, c. 24, {ss. 31(3)(a)}, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F8 Word in s. 146(2) substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 30(3)(a)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F9 Words in s. 146(2)(b) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 31(3)(b)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F10 Words in s. 146(2)(4) substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 30(2)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F11 Words in s. 146(2) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 30(3)(b)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F12 S. 146(2A)-(2D) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 31(4)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F13 Words in s. 146(3) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, **2(1)(3)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 1)

F14 Words in s. 146(3) substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 30(4)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F15 Words in s. 146(4) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, **2(1)(4)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 1)

F16 Words in s. 146(5) substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 30(5)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

F17 Words in s. 146(5) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, **2(1)(5)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 1)

F18 S. 146(5A) substituted for s. 146(6) (1.10.2004) by Employment Relations Act 2004 (c. 24), **ss. 30(6)**, 59(2)-(4); S.I. 2004/2566, **art. 3(a)** (with arts. 4-8)

Modifications etc. (not altering text)

C1 S. 146 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**
S. 146 modified (1.9.1999) by 1999/2256, art. 3, Sch.

C2 S. 146 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch.**

C3 S. 146 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 212A(1)(zb) inserted by 2023 c. 46 Sch. para. 1