
STATUTORY INSTRUMENTS

2004 No. 3078

The Employment Relations (Northern Ireland) Order 2004

PART IV

RIGHTS OF TRADE UNION MEMBERS, WORKERS AND EMPLOYEES

Detriments and inducements in respect of membership etc. of independent trade union

Dismissal for use of union services or refusal of inducement

15.—(1) Article 136 of the Employment Rights Order (dismissal on grounds related to union membership or activities) is amended as follows.

(2) In paragraph (1), omit “or” at the end of each of sub-paragraphs (a) and (b) and after sub-paragraph (b) insert—

- “(ba) had made use, or proposed to make use, of trade union services at an appropriate time,
(bb) had failed to accept an offer made in contravention of Article 77A or 77B, or”.

(3) In paragraph (2)—

- (a) for “(1)(b)” substitute “(1)”; and
(b) in sub-paragraph (b), after “the activities of a trade union” insert “or (as the case may be) make use of trade union services”.

(4) After paragraph (2) insert—

“(2A) In this Article—

- (a) “trade union services” means services made available to the employee by an independent trade union by virtue of his membership of the union, and
(b) references to an employee’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) Where the reason or one of the reasons for the dismissal was that an independent trade union (with or without the employee’s consent) raised a matter on behalf of the employee as one of its members, the reason shall be treated as falling within paragraph (1) (ba).”.

(5) In paragraph (4) (references to being etc. a member of a union to include being etc. a member of a branch or section) omit “; and references to taking part in the activities of a trade union shall be similarly construed”.

(6) After that paragraph add—

“(5) References in this Article—

- (a) to taking part in the activities of a trade union, and
(b) to services made available by a trade union by virtue of membership of the union,

shall be construed in accordance with paragraph (4).”.