



Employment Protection (Consolidation) Act 1978

1978 CHAPTER 44

PART II

RIGHTS ARISING IN COURSE OF EMPLOYMENT

Trade union membership and activities

23 Trade union membership and activities.

- (1) ^{F1}every employee shall have the right not to have action (short of dismissal) taken against him as an individual by his employer for the 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; or
 - (b) preventing or deterring him from taking part in the activities of an independent trade union at any appropriate time, or penalising him for doing so; or
 - (c) compelling him to be or become a member of [^{F2}any trade union or of a particular trade union or of one of a number of particular trade unions]

[^{F3}(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).]

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Section 23. (See end of Document for details)

(2) In this section “appropriate time”, in relation to an employee taking part in any activities of a trade union, means time which either—

- (a) is outside his working hours, or
- (b) is 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 those activities;

and in this subsection “working hours”, in relation to an employee, means any time when, in accordance with his contract of employment, he is required to be at work.

(2A)

^{F4}(3)

[^{F5F6}(7) In this section references to being, becoming or ceasing to remain a member of a trade union shall include references to being, becoming or ceasing to remain a member of a particular branch or section of that union and to being, becoming or ceasing to remain a member of one of a number of particular branches or sections of that union, and references to taking part in the activities of a trade union shall be similarly construed.]

Textual Amendments

- F1** Words repealed by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), s. 33(2), **Sch. 4**
- F2** Words substituted by [Employment Act 1982 \(c.46, SIF 43:5\)](#), s. **10(4)** with saving in S.I. 1982/1656, **Sch. 2**
- F3** S. 23(1A)(1B) inserted by [Employment Act 1982 \(c.46, SIF 43:5\)](#), s. **10(3)** with saving in S.I. 1982/1656, **Sch. 2**
- F4** S. 23(2A)(2B) repealed by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), ss. 11(a), 33(2), **Sch. 4**
- F5** S. 23(7) substituted by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), s. 33(1), **Sch. 3 Pt. I para. 2(1)**
- F6** S. 23(3)–(6) repealed with saving by [Employment Act 1980 \(c. 42, SIF 43:5\)](#), **Sch. 2** and S.I. 1980/1170, art. 4, **Sch. 3**

Modifications etc. (not altering text)

- C1** S. 23 amended (temp. until 1.11.1984) by S.I. 1982/1656, art. 3, **Sch. 2**
- C2** S. 23 modified by S.I. 1989/901, art. 3, **Sch.**

Status:

Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Section 23.