



Employment Act 1988

1988 CHAPTER 19

PART I

TRADE UNIONS

The closed shop etc.

10 Industrial action to enforce membership

- (1) Nothing in section 13 of the 1974 Act (immunity for acts in contemplation or furtherance of a trade dispute) shall prevent an act being actionable in tort or delict in any case where the reason, or one of the reasons, for which the act is done is the fact or belief that a particular employer—
 - (a) is employing, has employed or might employ a person who is not a member of any trade union, a person who is not a member of a particular trade union or a person who is not a member of one of a number of particular trade unions; or
 - (b) is failing, has failed or might fail to discriminate against any such person.
- (2) For the purposes of subsection (1)(b) above an employer discriminates against a person who is not a member of any trade union, of a particular trade union or, as the case may be, of one of a number of particular trade unions, if but only if he ensures that his conduct in relation to persons, or persons of any description, who are employed by him or who apply to be, or are, considered by him for employment or in relation to the provision of employment for such persons—
 - (a) is different, in some or all cases, according to whether or not those persons are such members; and
 - (b) is more favourable to those who are.
- (3) In this section—
 - (a) references to an employer employing a person are references to a person acting in the capacity of the person for whom a worker works or normally works; and

Status: This is the original version (as it was originally enacted).

- (b) references to not being a member of a trade union include references to not being a member of a particular branch or section of that union and to not being a member of one of a number of particular branches or sections of that union.

11 Action by an employer to enforce membership

In the 1978 Act, the following provisions (which enable an employer to take action in certain circumstances to enforce trade union membership) shall cease to have effect, that is to say—

- (a) in section 23 (action short of dismissal), subsections (2A) and (2B); and
- (b) in section 58 (dismissal), subsections (3) to (12).