



# Employment Act 2008

## 2008 CHAPTER 24

### *Miscellaneous*

#### **18 Employment agencies and national minimum wage legislation: information**

- (1) In the National Minimum Wage Act 1998 (c. 39), in section 15 (information obtained by officers), after subsection (5) there is inserted—

“(5A) Information to which this section applies—

- (a) may be supplied by, or with the authorisation of, the Secretary of State to an officer acting for the purposes of the Employment Agencies Act 1973 for any purpose relating to that Act; and
- (b) may be used by an officer acting for the purposes of that Act for any purpose relating to that Act.”

- (2) In the Employment Agencies Act 1973, in section 9 (inspection), subsection (4) is amended as follows—

- (a) after “this section” there is inserted “(or pursuant to section 15(5A) of the National Minimum Wage Act 1998)”;
- (b) after paragraph (iv) there is inserted “or
  - (v) to an officer acting for the purposes of the National Minimum Wage Act 1998 for any purpose relating to that Act;”.

#### **19 Exclusion or expulsion from trade union for membership of political party**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) is amended as follows.

- (2) In section 174 (right not to be excluded or expelled from union) after subsection (4B), there is inserted—

“(4C) Conduct which consists in an individual’s being or having been a member of a political party is not conduct falling within subsection (4A) if membership of that political party is contrary to—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a rule of the trade union, or
  - (b) an objective of the trade union.
- (4D) For the purposes of subsection (4C)(b) in the case of conduct consisting in an individual's being a member of a political party, an objective is to be disregarded—
- (a) in relation to an exclusion, if it is not reasonably practicable for the objective to be ascertained by a person working in the same trade, industry or profession as the individual;
  - (b) in relation to an expulsion, if it is not reasonably practicable for the objective to be ascertained by a member of the union.
- (4E) For the purposes of subsection (4C)(b) in the case of conduct consisting in an individual's having been a member of a political party, an objective is to be disregarded—
- (a) in relation to an exclusion, if at the time of the conduct it was not reasonably practicable for the objective to be ascertained by a person working in the same trade, industry or profession as the individual;
  - (b) in relation to an expulsion, if at the time of the conduct it was not reasonably practicable for the objective to be ascertained by a member of the union.
- (4F) Where the exclusion or expulsion of an individual from a trade union is wholly or mainly attributable to conduct which consists of an individual's being or having been a member of a political party but which by virtue of subsection (4C) is not conduct falling within subsection (4A), the exclusion or expulsion is not permitted by virtue of subsection (2)(d) if any one or more of the conditions in subsection (4G) apply.
- (4G) Those conditions are—
- (a) the decision to exclude or expel is taken otherwise than in accordance with the union's rules;
  - (b) the decision to exclude or expel is taken unfairly;
  - (c) the individual would lose his livelihood or suffer other exceptional hardship by reason of not being, or ceasing to be, a member of the union.
- (4H) For the purposes of subsection (4G)(b) a decision to exclude or expel an individual is taken unfairly if (and only if)—
- (a) before the decision is taken the individual is not given—
    - (i) notice of the proposal to exclude or expel him and the reasons for that proposal, and
    - (ii) a fair opportunity to make representations in respect of that proposal, or
  - (b) representations made by the individual in respect of that proposal are not considered fairly.”
- (3) In section 176 (remedies), in subsection (1D)(a), for “a member of the general public” substitute “a person working in the same trade, industry or profession as the complainant”.