



# Employment Act 1980

## 1980 CHAPTER 42

### *Unfair dismissal*

#### **7 Dismissal relating to trade union membership**

- (1) In subsection (3) of section 58 of the 1978 Act (dismissal of employee for non-membership of a union to be fair where there is a union membership agreement unless he objects to membership on grounds of religious belief) for the words from " unless " to the end there shall be substituted the words " but subject to subsections (3A) to (3C) ".
- (2) After subsection (3) of that section there shall be inserted—
  - “(3A) The dismissal of an employee in the circumstances set out in subsection (3) shall be regarded as unfair if he genuinely objects on grounds of conscience or other deeply-held personal conviction to being a member of any trade union whatsoever or of a particular trade union.
  - (3B) The dismissal of an employee by an employer in the circumstances set out in subsection (3) shall be regarded as unfair if the employee—
    - (a) has been among those employees of the employer who belong to the class to which the union membership agreement relates since before the agreement had the effect of requiring them to be or become members of a trade union, and
    - (b) has not at any time while the agreement had that effect been a member of a trade union in accordance with the agreement.
  - (3C) Where a union membership agreement takes effect after the commencement of section 7 of the Employment Act 1980 in relation to the employees of any class of an employer, and an employee of that class is dismissed by the employer in the circumstances set out in subsection (3), the dismissal shall be regarded as unfair if—
    - (a) the agreement has not been approved in relation to those employees in accordance with section 58A, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) it has been so approved through a ballot in which the dismissed employee was entitled to vote, but he has not at any time since the day on which the ballot was held been a member of a trade union in accordance with the agreement.
  - (3D) Where the employer of any employees changes in such circumstances that the employees' period of continuous employment is not broken, this section and section 58A shall have effect as if any reference to the employees of any class of title later employer included a reference to the employees of that class of the former employer.
  - (3E) In determining for the purposes of subsection (3B) and of section 58A(2) whether a person belongs to a class of employees, any restriction of the class by reference to membership (or objection to membership) of a trade union shall be disregarded.”
- (3) After that section there shall be inserted—

**“58A Ballots as to union membership agreements.**

- (1) A union membership agreement shall be taken for the purposes of section 58(3C) to have been approved in relation to the employees of any class of an employer if a ballot has been held on the question whether the agreement should apply in relation to them and not less than 80 per cent, of those entitled to vote in the ballot voted in favour of the agreement's application.
- (2) The persons entitled to vote in a ballot under this section in relation to the application of a union membership agreement to the employees of any class of an employer shall be all those employees who belong to that class, and are in the employment of the employer, on the day on which the ballot is held.
- (3) A ballot under this section shall be so conducted as to secure that, so far as reasonably practicable, all those entitled to vote have an opportunity of voting, and of doing so in secret.”