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STATUTORY INSTRUMENTS

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**1992 No. 807**

**The Industrial Relations (Northern Ireland) Order 1992**

**PART IV**

**RIGHTS OF TRADE UNION MEMBERS**

**Compensation for infringement of right under Article 29**

**30.**—(1) A person who has made a complaint against a trade union under Article 29 which has been declared to be well-founded may make an application to an industrial tribunal for an award of compensation to be paid to him by the union.

(2) An industrial tribunal shall not entertain an application for compensation under this Article if it is made before the end of the period of four weeks beginning with the date of the declaration under Article 29 or after the end of the period of six months beginning with that date.

(3) Subject to the following provisions of this Article, the amount of compensation awarded on an application under this Article—

- (a) if at the time when the application is made the applicant has been admitted or re-admitted to membership of the union against which he made the complaint, shall be such as the tribunal considers appropriate for the purpose of compensating the applicant for the loss sustained by him in consequence of the refusal or expulsion which was the subject of his complaint; and
- (b) if at that time he has not been so admitted or re-admitted, shall be such as the tribunal considers just and equitable in all the circumstances.

(4) In determining the amount of compensation to be awarded under this Article, the industrial tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of Northern Ireland.

(5) Where the industrial tribunal finds that the refusal or expulsion which was the subject of the applicant's complaint was to any extent caused or contributed to by any action of the applicant, it shall reduce the amount of the compensation by such proportion as it considers just and equitable having regard to that finding.

(6) Subject to paragraph (8), the amount of compensation awarded by an industrial tribunal under paragraph (3)(a) shall not exceed the aggregate of—

- (a) an amount equal to thirty times the limit for the time being imposed by Article 35(4) of the No. 1 Order (maximum amount of a week's pay for purpose of calculating basic award in unfair dismissal cases); and
- (b) an amount equal to the limit for the time being imposed by Article 37 of that Order (maximum compensatory award in such cases).

(7) Subject to paragraph (8), the amount of compensation awarded by an industrial tribunal under paragraph (3)(b) shall not exceed the aggregate of—

- (a) the amount referred to in paragraph (6)(a);
- (b) the amount referred to in paragraph (6)(b); and

- (c) an amount equal to fifty-two times the limit for the time being imposed by Article 32(8) of the No. 1 Order (maximum amount of a week's pay for purpose of calculating additional award of compensation in unfair dismissal cases),

and shall not be less than the amount for the time being specified in Article 34(5A) of that Order (minimum basic award in certain cases of unfair dismissal).

(8) In determining the amount of any compensation to be awarded against a trade union on an application under this Article, any reduction or increase which is required to be made by virtue of paragraph (6) or (7) shall be made—

- (a) before any reduction is made by virtue of paragraph (4) or (5); and
- (b) before any reduction is made on account of sums already paid by the union by way of compensation in respect of the subject matter of the application;

and, accordingly, where the case so requires, the reductions mentioned in sub-paragraphs (a) and (b) shall be applied to the maximum or, as the case may be, minimum award under paragraph (6) or (7).