
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XI N.I.

UNFAIR DISMISSAL

CHAPTER I N.I.

RIGHT NOT TO BE UNFAIRLY DISMISSED

[^{F1}Other Dismissals]

^{X1}Trade union membership or activities N.I.

136.—(1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for his dismissal is that the employee—

- (a) was, or proposed to become, a member of an independent trade union,^{F1} . . .
 - (b) had taken part, or proposed to take part, in the activities of an independent trade union at an appropriate time,^{F1} . . .
 - ^{F1}(ba) had made use, or proposed to make use, of trade union services at an appropriate time,
 - (bb) had failed to accept an offer made in contravention of Article 77A or 77B, or]
 - (c) was not a member of any trade union, or of a particular trade union, or of one of a number of particular trade unions, or had refused, or proposed to refuse, to become or remain a member.
- (2) In paragraph^{F1} (1)] “an appropriate time” means—
- (a) a time outside the employee's working hours, or
 - (b) 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 the activities of a trade union^{F1} or (as the case may be) make use of trade union services];

and for this purpose “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.

^{F1}(2A) In this Article—

- (a) “trade union services” means services made available to the employee by an independent trade union by virtue of his membership of the union, and
- (b) references to an employee's “making use” of trade union services include his consenting to the raising of a matter on his behalf by an independent trade union of which he is a member.

(2B) Where the reason or one of the reasons for the dismissal was that an independent trade union (with or without the employee's consent) raised a matter on behalf of the employee as one of its members, the reason shall be treated as falling within paragraph (1)(ba).]

Changes to legislation: The Employment Rights (Northern Ireland) Order 1996, Section 136 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) Where the reason, or one of the reasons, for the dismissal was —
- (a) the employee's refusal, or proposed refusal, to comply with a requirement (whether or not imposed by his contract of employment or in writing) that, in the event of his not being 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, or
 - (b) his objection, or proposed objection, (however expressed) to the operation of a provision (whether or not forming part of his contract of employment or in writing) under which, in the event mentioned in sub-paragraph (a), his employer is entitled to deduct one or more sums from the remuneration payable to him in respect of his employment,

the reason shall be treated as falling within paragraph (1)(c).

(4) References in this Article to being or becoming a member of a trade union include references to being or becoming a member of a particular branch or section of that union or of one of a number of particular branches or sections of that trade union^{F1}. . . .

[^{F1}(5) References in this Article—

- (a) to taking part in the activities of a trade union, and
- (b) to services made available by a trade union by virtue of membership of the union,

shall be construed in accordance with paragraph (4).]

Editorial Information

- X1** The insertion of the new arts. 130ZA-130ZH preceded by new "Retirement" crossheading and followed by new "Other Dismissals" crossheading on 1.10.2006 gives rise to a change in the structure of this Order on legislation.gov.uk which breaks the continuity of historical versions of the existing provisions which are brought under new "Other Dismissals" crossheading

F1 [2004 NI 19](#)

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Changes and effects yet to be applied to :

- art. 126-169 (Pt.1) (defn. of dismissal) applied by [1998 c. 39 s.23\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). Pre-2006 basedate NI non-textual amendment)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Pt. 7A inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 1](#)
- Ch. 5 inserted by [2022 c. 27 \(N.I.\) s. 1\(1\)](#)
- art. 21(4B) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 2](#)
- art. 23(1)(zza) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 3](#)
- art. 70F inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 4](#)
- art. 70G inserted by [2020 c. 7 Sch. 7 para. 20](#)
- art. 71(1C) inserted by [2020 c. 7 Sch. 7 para. 21\(a\)](#)
- art. 72(8) inserted by [2020 c. 7 Sch. 7 para. 22\(b\)](#)
- art. 85ZS(3)(a)-(c) substituted for words by [2022 c. 18 \(N.I.\) Sch. 3 para. 47\(4\)](#)
- art. 95F(5A) inserted by [2016 c. 15 \(N.I.\) Sch. 2 para. 32](#)
- art. 135E inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 6](#)
- art. 135G inserted by [2020 c. 7 Sch. 7 para. 25](#)
- art. 137(6D) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 7](#)
- art. 137(7N) inserted by [2020 c. 7 Sch. 7 para. 26\(b\)](#)
- art. 140(3)(fj) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 8](#)
- art. 140(3)(fl) inserted by [2020 c. 7 Sch. 7 para. 27](#)
- art. 143(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 9](#)
- art. 144(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 10](#)