



# Employment Act 1980

## 1980 CHAPTER 42

### *Exclusion from trade union membership*

#### **4 Unreasonable exclusion or expulsion from trade union**

- (1) This section applies to employment by an employer with respect to which it is the practice, in accordance with a union membership agreement, for the employee to belong to a specified trade union or one of a number of specified trade unions.
- (2) Every person who is, or is seeking to be, in employment to which this section applies shall have the right—
  - (a) not to have an application for membership of a specified trade union unreasonably refused ;
  - (b) not to be unreasonably expelled from a specified trade union.
- (3) The rights conferred by subsection (2) above are in addition to and not in substitution for any right which exists apart from that subsection; and, without prejudice to any remedy for infringement of any such other right, the remedies for infringement of a right conferred by that subsection shall be those provided by the following provisions of this section and section 5 below.
- (4) A complaint may be presented to an industrial tribunal against a trade union by a person that an application by him for membership of the union has been unreasonably refused, or that he has been unreasonably expelled from the union, in contravention of subsection (2) above.
- (5) On a complaint under this section, the question whether a trade union has acted reasonably or unreasonably shall be determined in accordance with equity and the substantial merits of the case, and in particular a union shall not be regarded as having acted reasonably only because it has acted in accordance with the requirements of its rules or unreasonably only because it has acted in contravention of them.
- (6) A tribunal shall not entertain a complaint under this section unless it is presented to the tribunal before the end of the period of six months beginning with the date of the refusal or expulsion, as the case may be, or within such further period as the tribunal

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*Status: This is the original version (as it was originally enacted).*

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considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of six months.

- (7) Where a tribunal finds that a complaint under this section is well-founded, the tribunal shall make a declaration to that effect.
- (8) An appeal shall lie to the Employment Appeal Tribunal on any question of law or fact arising from any decision of, or arising in any proceedings before, an industrial tribunal under this section.
- (9) For the purposes of this section and section 5 below—
  - (a) if an application for membership of a trade union has been neither granted nor rejected before the end of the period within which it might reasonably have been expected to be granted if it was to be granted, the application shall be treated as having been refused on the last day of that period, and
  - (b) if under the rules of a trade union any person ceases to be a member of the union on the happening of an event specified in the rules, he shall be treated as having been expelled from the union.
- (10) Any expression used in any provision of this section or section 5 below and in the 1974 Act has the same meaning in that provision as it has in that Act, except that any reference in such a provision to a trade union includes a reference to a branch or section of a trade union.
- (11) Any provision in an agreement shall be void in so far as it purports to exclude or limit the operation of, or to preclude any person from presenting a complaint or making an application under, this section or section 5 below; but this subsection shall not apply to an agreement to refrain from instituting or continuing proceedings where a conciliation officer has taken action in accordance with section 133(2) or (3) of the 1978 Act.