



Employment Act 1982

1982 CHAPTER 46

Action short of dismissal

10 Action relating to trade union membership

(1) In section 23 of the 1978 Act, in subsection (2A) (rights of employees where there is a union membership agreement) in paragraph (b) for the words " section 58(3A), (3B) or (3C)" there shall be substituted the words " section 58 ".

(2) For subsection (2B) of that section there shall be substituted—

“(2B) A union membership agreement having effect in relation to the employees of any class of an employer shall be disregarded for the purposes of the application of subsection (2A)(a) to those employees unless the agreement has, for the purposes of section 58(3)(c), been approved in relation to them in accordance with section 58A through a ballot held within the period of five years ending with the date on which the action in question occurred.”.

(3) After subsection (1) of that section there shall be inserted—

“(1A) Every employee shall also have the right not to have action (short of dismissal) taken against him for the purpose of enforcing a requirement (whether or not imposed by his contract of employment or in writing) that, in the event of his failure to become or his ceasing to remain 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.

(1B) For the purposes of this section, any deduction made by an employer from the remuneration payable to an employee of his in respect of that employee's employment shall, if the deduction is attributable to the employee's failure to become or his ceasing to remain a member of any trade union or of a particular trade union or of one of a number of particular trade unions, be treated as if it were action (short of dismissal) taken against the employee for the purpose of enforcing a requirement of a kind mentioned in subsection (1A).”.

- (4) In subsection (1)(c) of that section, for the words " a trade union " there shall be substituted the words " any trade union or of a particular trade union or of one of a number of particular trade unions ".

11 Awards against third parties

For section 26A of the 1978 Act (contribution in respect of compensation) there shall be substituted—

“26A Awards against third parties.

(1) Where—

- (a) a complaint is presented to an industrial tribunal under section 24 on the ground that action has been taken against the complainant by his employer for the purpose of compelling him to be or become a member of any trade union or of a particular trade union or of one of a number of particular trade unions, and
- (b) either the employer or the complainant claims in proceedings before the tribunal that the employer was induced to take the action by pressure which a trade union or other person exercised on the employer by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so,

the employer or the complainant may request the tribunal to direct that the person who he claims exercised the pressure be joined, or in Scotland sisted, as a party to the proceedings.

- (2) A request under subsection (1) shall be granted if it is made before the hearing of the complaint begins, but may be refused if it is made after that time; and no such request may be made after the tribunal has made a declaration under section 24(3).
- (3) Where a person has been joined, or in Scotland sisted, as a party to proceedings before an industrial tribunal by virtue of subsection (1), and the tribunal—
- (a) makes an award of compensation, but
 - (b) finds that the claim mentioned in subsection (1) is well-founded,
- the award may be made against that person instead of against the employer, or partly against that person and partly against the employer, as the tribunal may consider just and equitable in the circumstances.”.