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# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART III

#### RIGHTS IN RELATION TO UNION MEMBERSHIP AND ACTIVITIES

*[<sup>F1</sup>Right to membership of trade union]*

#### Textual Amendments

**F1** Ss. 174-177 and cross heading substituted (30.11.1993) by 1993 c. 19, s.14; S.I. 1993/1908, art. 2(2), Sch.2

#### **[<sup>F2</sup>174 Right not to be excluded or expelled from union.**

- (1) An individual shall not be excluded or expelled from a trade union unless the exclusion or expulsion is permitted by this section.
- (2) The exclusion or expulsion of an individual from a trade union is permitted by this section if (and only if)—
  - (a) he does not satisfy, or no longer satisfies, an enforceable membership requirement contained in the rules of the union,
  - (b) he does not qualify, or no longer qualifies, for membership of the union by reason of the union operating only in a particular part or particular parts of Great Britain,
  - (c) in the case of a union whose purpose is the regulation of relations between its members and one particular employer or a number of particular employers who are associated, he is not, or is no longer, employed by that employer or one of those employers, or
  - (d) the exclusion or expulsion is entirely attributable to his conduct.

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- (3) A requirement in relation to membership of a union is “enforceable” for the purposes of subsection (2)(a) if it restricts membership solely by reference to one or more of the following criteria—
- (a) employment in a specified trade, industry or profession,
  - (b) occupational description (including grade, level or category of appointment), and
  - (c) possession of specified trade, industrial or professional qualifications or work experience.
- (4) For the purposes of subsection (2)(d) “conduct”, in relation to an individual, does not include—
- (a) his being or ceasing to be, or having been or ceased to be—
    - (i) a member of another trade union,
    - (ii) employed by a particular employer or at a particular place, or
    - (iii) a member of a political party, or
  - (b) conduct to which section 65 (conduct for which an individual may not be disciplined by a trade union) applies or would apply if the references in that section to the trade union which is relevant for the purposes of that section were references to any trade union.
- (5) An individual who claims that he has been excluded or expelled from a trade union in contravention of this section may present a complaint to an [<sup>F3</sup>employment tribunal].]

#### Textual Amendments

- F2** Ss. 174-177 and cross heading substituted (30.11.1993) by 1993 c. 19, s. 14; S.I. 1993/1908, art. 2(2), Sch. 2
- F3** Words in s. 174(5) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

#### [<sup>F4</sup>175 Time limit for proceedings.

An [<sup>F5</sup>employment tribunal] shall not entertain a complaint under section 174 unless it is presented—

- (a) before the end of the period of six months beginning with the date of the exclusion or expulsion, or
- (b) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period, within such further period as the tribunal considers reasonable.]

#### Textual Amendments

- F4** Ss. 174-177 and cross heading substituted (30.11.1993) by 1993 c. 19, s. 14; S.I. 1993/1908, art. 2(2), Sch. 2
- F5** Words in s. 175 substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

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## [<sup>F6</sup>176 Remedies.

- (1) Where the [<sup>F7</sup>employment tribunal] finds a complaint under section 174 is well-founded, it shall make a declaration to that effect.
- (2) An individual whose complaint has been declared to be well-founded may make an application for an award of compensation to be paid to him by the union.

The application shall be made to an [<sup>F7</sup>employment tribunal] if when it is made the applicant has been admitted or re-admitted to the union, and otherwise to the Employment Appeal Tribunal.

- (3) The application shall not be entertained if made—
  - (a) before the end of the period of four weeks beginning with the date of the declaration, or
  - (b) after the end of the period of six months beginning with that date.
- (4) The amount of compensation awarded shall, subject to the following provisions, be such as the [<sup>F7</sup>employment tribunal] or the Employment Appeal Tribunal considers just and equitable in all the circumstances.
- (5) Where the [<sup>F7</sup>employment tribunal] or Employment Appeal Tribunal finds that the exclusion or expulsion complained of was to any extent caused or contributed to by the 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) The amount of compensation calculated in accordance with subsections (4) and (5) shall not exceed the aggregate of—
  - (a) an amount equal to thirty times the limit for the time being imposed by [<sup>F8</sup>section 227(1)(a) of the Employment Rights Act 1996] (maximum amount of a week's pay for basic award in unfair dismissal cases), and
  - (b) an amount equal to the limit for the time being imposed by [<sup>F9</sup>section 124(1)] of that Act (maximum compensatory award in such cases);and, in the case of an award by the Employment Appeal Tribunal, shall not be less than £5,000.

<sup>F10</sup>(7) .....

<sup>F11</sup>(8) .....]

### Textual Amendments

- F6** Ss. 174-177 and cross heading substituted (30.11.1993) by 1993 c. 19, s. 14; S.I. 1993/1908, art. 2(2), **Sch. 2**
- F7** Words in s. 176 substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F8** Words in s. 176(6)(a) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 56(13)(a)** (with ss. 191-195, 202)
- F9** Words in s. 176(6)(b) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 56(13)(b)** (with ss. 191-195, 202)
- F10** S. 176(7) repealed (17.12.1999 subject to s. 36(3) of the amending Act) by 1999 c. 26, ss. 36(1)(3), 44, **Sch. 9(10)**; S.I. 1999/3374, art. 2(b), **Sch.** (with art. 3)
- F11** S. 176(8) repealed (17.12.1999 subject to s. 36(3) of the amending Act) by 1999 c. 26, ss. 36(1)(3), 44, **Sch. 9(10)**; S.I. 1999/3374, art. 2(b), **Sch.** (with art. 3)

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#### Modifications etc. (not altering text)

- C1** S. 176: power to amend conferred (17.12.1999) by 1999 c. 26, s. 34(1)(g); S.I. 1999/3374, art. 2(a), Sch. (with art. 3)

#### [<sup>F12</sup>177 Interpretation and other supplementary provisions.

- (1) For the purposes of section 174—
  - (a) “trade union” does not include an organisation falling within paragraph (b) of section 1,
  - (b) “conduct” includes statements, acts and omissions, and
  - (c) “employment” includes any relationship whereby an individual personally does work or performs services for another person (related expressions being construed accordingly).
- (2) For the purposes of sections 174 to 176—
  - (a) if an individual’s application for membership of a trade union is 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, he shall be treated as having been excluded from the union on the last day of that period, and
  - (b) an individual who under the rules of a trade union ceases to be a member of the union on the happening of an event specified in the rules shall be treated as having been expelled from the union.
- (3) The remedy of an individual for infringement of the rights conferred by section 174 is by way of a complaint to an [<sup>F13</sup>employment tribunal] in accordance with that section, sections 175 and 176 and this section, and not otherwise.
- (4) Where a complaint relating to an expulsion which is presented under section 174 is declared to be well-founded, no complaint in respect of the expulsion shall be presented or proceeded with under section 66 (complaint of infringement of right not to be unjustifiably disciplined).
- (5) The rights conferred by section 174 are in addition to, and not in substitution for, any right which exists apart from that section; and, subject to subsection (4), nothing in that section, section 175 or 176 or this section affects any remedy for infringement of any such right.

#### Textual Amendments

- F12** Ss. 174-177 and cross heading substituted (30.11.1993) by 1993 c. 19, s. 14; S.I. 1993/1908, art. 2(2), Sch. 2
- F13** Words in s. 177(3) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

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