



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART III

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

##### *Access to employment*

#### **137 Refusal of employment on grounds related to union membership.**

- (1) It is unlawful to refuse a person employment—
  - (a) because he is, or is not, a member of a trade union, or
  - (b) because he is unwilling to accept a requirement—
    - (i) to take steps to become or cease to be, or to remain or not to become, a member of a trade union, or
    - (ii) to make payments or suffer deductions in the event of his not being a member of a trade union.
- (2) A person who is thus unlawfully refused employment has a right of complaint to an [<sup>F1</sup>employment tribunal].
- (3) Where an advertisement is published which indicates, or might reasonably be understood as indicating—
  - (a) that employment to which the advertisement relates is open only to a person who is, or is not, a member of a trade union, or
  - (b) that any such requirement as is mentioned in subsection (1)(b) will be imposed in relation to employment to which the advertisement relates,a person who does not satisfy that condition or, as the case may be, is unwilling to accept that requirement, and who seeks and is refused employment to which the advertisement relates, shall be conclusively presumed to have been refused employment for that reason.

*Status: Point in time view as at 01/08/1998.*

*Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Section 137 is up to date with all changes known to be in force on or before 30 July 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)*

- (4) Where there is an arrangement or practice under which employment is offered only to persons put forward or approved by a trade union, and the trade union puts forward or approves only persons who are members of the union, a person who is not a member of the union and who is refused employment in pursuance of the arrangement or practice shall be taken to have been refused employment because he is not a member of the trade union.
- (5) A person shall be taken to be refused employment if he seeks employment of any description with a person and that person—
- (a) refuses or deliberately omits to entertain and process his application or enquiry, or
  - (b) causes him to withdraw or cease to pursue his application or enquiry, or
  - (c) refuses or deliberately omits to offer him employment of that description, or
  - (d) makes him an offer of such employment the terms of which are such as no reasonable employer who wished to fill the post would offer and which is not accepted, or
  - (e) makes him an offer of such employment but withdraws it or causes him not to accept it.
- (6) Where a person is offered employment on terms which include a requirement that he is, or is not, a member of a trade union, or any such requirement as is mentioned in subsection (1)(b), and he does not accept the offer because he does not satisfy or, as the case may be, is unwilling to accept that requirement, he shall be treated as having been refused employment for that reason.
- (7) Where a person may not be considered for appointment or election to an office in a trade union unless he is a member of the union, or of a particular branch or section of the union or of one of a number of particular branches or sections of the union, nothing in this section applies to anything done for the purpose of securing compliance with that condition although as holder of the office he would be employed by the union.
- For this purpose an “office” means any position—
- (a) by virtue of which the holder is an official of the union, or
  - (b) to which Chapter IV of Part I applies (duty to hold elections).
- (8) The provisions of this section apply in relation to an employment agency acting, or purporting to act, on behalf of an employer as in relation to an employer.

#### **Textual Amendments**

- F1** Words in s. 137(2) 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

**Status:**

Point in time view as at 01/08/1998.

**Changes to legislation:**

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