



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART III

RIGHTS IN RELATION TO UNION MEMBERSHIP AND ACTIVITIES

Dismissal

158 Amount of special award.

- (1) Subject to the following provisions of this section, the amount of the special award shall be one week's pay multiplied by 104, or [^{F1}£13,775], whichever is the greater, but shall not exceed [^{F1}£27,500].
- (2) Where the award of compensation is made under section 71(2)(a) of the Employment Protection (Consolidation) Act 1978 (compensation where employee not reinstated or re-engaged in accordance with order) then, unless the employer satisfies the tribunal that it was not practicable to comply with the order for reinstatement or re-engagement, the amount of the special award shall be increased to one week's pay multiplied by 156, or [^{F1}£20,600] whichever is the greater [^{F2}, but subject to the following provisions of this section.].
- (3) In a case where the amount of the basic award is reduced under section 73(5) of the ^{M1}Employment Protection (Consolidation) Act 1978 (reduction where complainant aged over 64), the amount of the special award shall be reduced by the same fraction.
- (4) Where the tribunal considers that any conduct of the complainant before the dismissal (or, where the dismissal was with notice, before the notice was given) was such that it would be just and equitable to reduce or further reduce the amount of the special award to any extent, the tribunal shall reduce or further reduce that amount accordingly.
- (5) Where the tribunal finds that the complainant has unreasonably—

Status: Point in time view as at 27/09/1995. This version of this provision has been superseded.

Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Section 158 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)

- (a) prevented an order for reinstatement or re-engagement from being complied with, or
 - (b) refused an offer by the employer (made otherwise than in compliance with such an order) which if accepted would have the effect of reinstating the complainant in his employment in all respects as if he had not been dismissed,
- the tribunal shall reduce or further reduce the amount of the special award to such extent as it considers just and equitable having regard to that finding.
- (6) Where the employer has engaged a permanent replacement for the complainant, the tribunal shall not take that fact into account in determining for the purposes of subsection (2) whether it was practicable to comply with an order for reinstatement or re-engagement unless the employer shows that it was not practicable for him to arrange for the complainant's work to be done without engaging a permanent replacement.
- [^{F3}(7) Schedule 14 to the ^{M2}Employment Protection (Consolidation) Act 1978 (calculation of a week's pay) shall apply for the purposes of this section with the substitution, for paragraph 7, of the following:—

For the purposes of this Part in its application to section 158 of the ^{M3}Trade Union and Labour Relations (Consolidation) Act 1992, the calculation date is—

- (a) where the dismissal was with notice, the date on which the employer's notice was given;
- (b) where paragraph (a) does not apply, the effective date of termination.]

Textual Amendments

- F1** Sums in s. 158(1)(2) substituted (27.9.1995) by S.I. 1995/1953, art. 3, **Sch.** (with art. 4)
- F2** Words in s. 158(2) inserted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 68**; S.I. 1993/1098, art. 2(1), **Sch. 1**
- F3** S. 158(7) inserted (30.8.1993) by 1993 c. 19, s. 49(1), **Sch. 7 para. 21**; S.I. 1993/1908, art. 2(1), **Sch. 1**

Marginal Citations

- M1** 1978 c. 44.
- M2** 1978 c. 44.
- M3** 1992 c. 52.

Status:

Point in time view as at 27/09/1995. This version of this provision has been superseded.

Changes to legislation:

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