



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART III

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

##### *Dismissal [F<sup>1</sup> of employee]*

#### **163 Procedure on hearing of application and making of order.**

- (1) If on hearing an application for interim relief it appears to the tribunal that it is likely that on determining the complaint to which the application relates that it will find that, by virtue of section 152, the complainant has been unfairly dismissed, the following provisions apply.
- (2) The tribunal shall announce its findings and explain to both parties (if present) what powers the tribunal may exercise on the application and in what circumstances it will exercise them, and shall ask the employer (if present) whether he is willing, pending the determination or settlement of the complaint—
  - (a) to reinstate the employee, that is to say, to treat him in all respects as if he had not been dismissed, or
  - (b) if not, to re-engage him in another job on terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed.
- (3) For this purpose “terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed” means as regards seniority, pension rights and other similar rights that the period prior to the dismissal shall be regarded as continuous with his employment following the dismissal.
- (4) If the employer states that he is willing to reinstate the employee, the tribunal shall make an order to that effect.

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*Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Section 163 is up to date with all changes known to be in force on or before 26 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) View outstanding changes*

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- (5) If the employer states that he is willing to re-engage the employee in another job, and specifies the terms and conditions on which he is willing to do so, the tribunal shall ask the employee whether he is willing to accept the job on those terms and conditions; and—
- (a) if the employee is willing to accept the job on those terms and conditions, the tribunal shall make an order to that effect, and
  - (b) if he is not, then, if the tribunal is of the opinion that the refusal is reasonable, the tribunal shall make an order for the continuation of his contract of employment, and otherwise the tribunal shall make no order.
- (6) If on the hearing of an application for interim relief the employer fails to attend before the tribunal, or states that he is unwilling either to reinstate the employee or re-engage him as mentioned in subsection (2), the tribunal shall make an order for the continuation of the employee's contract of employment.

**Changes to legislation:**

Trade Union and Labour Relations (Consolidation) Act 1992, Section 163 is up to date with all changes known to be in force on or before 26 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212A(1)(zb) inserted by [2023 c. 46 Sch. para. 1](#)