
STATUTORY INSTRUMENTS

2004 No. 3078

The Employment Relations (Northern Ireland) Order 2004

PART IV

RIGHTS OF TRADE UNION MEMBERS, WORKERS AND EMPLOYEES

Detriments and inducements in respect of membership etc. of independent trade union

Detriment for use of union services or refusal of inducement

13.—(1) Article 73 of the Employment Rights Order (action short of dismissal on grounds related to union membership or activities) is also amended in accordance with paragraphs (2) to (6).

(2) In paragraph (1), omit “or” at the end of sub-paragraph (b) and after that sub-paragraph insert—

“(ba) preventing or deterring him from making use of trade union services at an appropriate time, or penalising him for doing so, or” .

(3) In paragraph (2)—

(a) for “(1)(b)” substitute “ (1) ”; and

(b) in sub-paragraph (b), after “the activities of a trade union” insert “ or (as the case may be) make use of trade union services ”.

(4) After paragraph (2) insert—

“(2A) In this Article—

(a) “trade union services” means services made available to the worker by an independent trade union by virtue of his membership of the union, and

(b) references to a worker's “making use” of trade union services include his consenting to the raising of a matter on his behalf by an independent trade union of which he is a member.

(2B) If an independent trade union of which a worker is a member raises a matter on his behalf (with or without his consent), penalising the worker for that is to be treated as penalising him as mentioned in paragraph (1)(ba).

(2C) A worker also has the right not to be subjected to any detriment as an individual by any act, or any deliberate failure to act, by his employer if the act or failure takes place because of the worker's failure to accept an offer made in contravention of Article 77A or 77B.

(2D) For the purposes of paragraph (2C), not conferring a benefit that, if the offer had been accepted by the worker, would have been conferred on him under the resulting agreement shall be taken to be subjecting him to a detriment as an individual (and to be a deliberate failure to act).”

(5) In paragraph (5) (references to being etc. a member of a union to include being etc. a member of a branch or section) omit “; and references to taking part in the activities of a trade union shall be similarly construed”.

(6) After that paragraph insert—

“(5A) References in this Chapter—

(a) to taking part in the activities of a trade union, and

(b) to services made available by a trade union by virtue of membership of the union,

shall be construed in accordance with paragraph (5).”

(7) In Article 75 of the Employment Rights Order (consideration of complaint under Article 74), omit paragraphs (3) to (5).

(8) Omit Article 19 of the Employment Relations (Northern Ireland) Order 1999 (NI 9) (which is superseded by this Article and Article 15).

Changes to legislation:

There are currently no known outstanding effects for the The Employment Relations (Northern Ireland) Order 2004, Section 13.