



Employment Act 1980

1980 CHAPTER 42

Exclusion from trade union membership

5 Compensation

- (1) A person who has made a complaint against a trade union under section 4 above which has been declared to be well-founded may make an application in accordance with subsection (2) below for an award of compensation to be paid to him by the union.
- (2) If at the time when the application under this section is made the applicant has been admitted or re-admitted to membership of the union against which he made the complaint, the application shall be to an industrial tribunal; and if at that time he has not been so admitted or re-admitted, the application shall be to the Employment Appeal Tribunal.
- (3) An industrial tribunal or the Employment Appeal Tribunal shall not entertain an application for compensation under this section if it is made before the end of the period of four weeks beginning with the date of the declaration under section 4 above or after the end of the period of six months beginning with that date.
- (4) Subject to the following provisions of this section, the amount of compensation awarded on an application under this section—
 - (a) in the case of an application to an industrial tribunal, shall be such as the tribunal considers appropriate for the purpose of compensating the applicant for the loss sustained by him in consequence of the refusal or expulsion which was the subject of his complaint, and
 - (b) in the case of an application to the Employment Appeal Tribunal, shall be such as the Appeal Tribunal considers just and equitable in all the circumstances.
- (5) In determining the amount of compensation to be awarded under this section, the industrial tribunal or the Employment Appeal Tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of England and Wales or of Scotland, as the case may be.
- (6) Where the industrial tribunal or the Employment Appeal Tribunal finds that the refusal or expulsion which was the subject of the applicant's complaint was to any extent

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caused or contributed to by any 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.

- (7) The amount of compensation awarded on an application to an industrial tribunal under this section shall not exceed the aggregate of—
- (a) an amount equal to thirty times the limit for the time being imposed by paragraph 8(1)(b) of Schedule 14 to the 1978 Act (maximum amount of a week's pay for purpose of calculating basic award in unfair dismissal cases), and
 - (b) an amount equal to the limit for the time being imposed by section 75 of that Act (maximum compensatory award in such cases).
- (8) The amount of compensation awarded on an application to the Employment Appeal Tribunal under this section shall not exceed the aggregate of—
- (a) the amount referred to in paragraph (a) of subsection (7) above, and
 - (b) the amount referred to in paragraph (b) of that subsection, and
 - (c) an amount equal to fifty-two times the limit for the time being imposed by paragraph 8(1)(a) of Schedule 14 to the 1978 Act (maximum amount of a week's pay for purpose of calculating additional award of compensation in unfair dismissal cases).
- (9) An appeal shall lie to the Employment Appeal Tribunal on a question of law arising from any decision of, or arising in proceedings before, an industrial tribunal under this section.