



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART III

RIGHTS IN RELATION TO UNION MEMBERSHIP AND ACTIVITIES

[^{F1}Detriment]

Textual Amendments

- F1** Words in cross-heading substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(7\), 59\(2\)-\(4\); S.I. 2004/2566](#), art. 3 (with arts. 4-8)

146 *[^{F2}Detriment]* on grounds related to union membership or activities.

- (1) *[^{F3}A worker]* has the right not to *[^{F4}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] for *[^{F5}the sole or main purpose]* of—
- (a) preventing or deterring him from being or seeking to become a member of an independent trade union, or penalising him for doing so,
 - (b) preventing or deterring him from taking part in the activities of an independent trade union at an appropriate time, or penalising him for doing so, ^{F6} . . .
 - [^{F7}(ba)]* preventing or deterring him from making use of trade union services at an appropriate time, or penalising him for doing so, or]
 - (c) compelling him to be or become a member of any trade union or of a particular trade union or of one of a number of particular trade unions.
- (2) In subsection *[^{F8}(1)]* “an appropriate time” means—
- (a) a time outside the *[^{F9}worker’s]* working hours, or

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- (b) a time within his working hours at which, in accordance with arrangements agreed with or consent given by his employer, it is permissible for him to take part in the activities of a trade union [^{F10}or (as the case may be) make use of trade union services];

and for this purpose “working hours”, in relation to [^{F11}a worker], means any time when, in accordance with his contract of employment [^{F12}(or other contract personally to do work or perform services)], he is required to be at work.

[^{F13}(2A) In this section—

- (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 subsection (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 section 145A or 145B.

(2D) For the purposes of subsection (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).]

(3) [^{F3}A worker] also has the right not to [^{F14}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] for [^{F5}the sole or main purpose] of enforcing a requirement (whether or not imposed by [^{F15}a contract of employment] or in writing) that, in the event of his not being a member of any trade union or of a particular trade union or of one of a number of particular trade unions, he must make one or more payments.

(4) For the purposes of subsection (3) any deduction made by an employer from the remuneration payable to [^{F11}a worker] in respect of his employment shall, if it is attributable to his not being a member of any trade union or of a particular trade union or of one of a number of particular trade unions, be treated as [^{F16}a detriment to which he has been subjected as an individual by an act of his employer taking place] for [^{F5}the sole or main purpose] of enforcing a requirement of a kind mentioned in that subsection.

(5) [^{F17}A worker or former worker] may present a complaint to an industrial tribunal on the ground that [^{F18}he has been subjected to a detriment]by his employer in contravention of this section.

[^{F19}(5A) This section does not apply where—

- (a) the worker is an employee; and
 (b) the detriment in question amounts to dismissal.]

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Textual Amendments

- F2** Words in s. 146 sidenote substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(7\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F3** Words in s. 146(1)(3) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(2\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F4** Words in s. 146(1) substituted (25.20.1999) by 1999 c. 26, s.1, Sch. 2 paras. 1, [2\(1\)\(2\)](#); S.I. 1999/2830, [art. 2\(1\)](#), [Sch. 1 Pt. I](#) (with Sch. 3 para. 1)
- F5** Words in s. 146(1)(3)(4) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 57\(1\), 59\(2\)-\(4\)](#), [Sch. 1 para. 8](#); S.I. 2004/2566, [art. 3\(b\)](#) (with arts. 4-8)
- F6** Word in s. 146(1)(b) repealed (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 31\(2\), 57\(2\), 59\(2\)-\(4\)](#), [Sch. 2](#); S.I. 2004/2566, [art. 3\(a\)\(c\)](#) (with arts. 4-8)
- F7** S. 146(1)(ba) inserted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 31\(2\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F8** Words in s. 146(2) substituted (1.10.2004) by [Employment Relations Act 2004, c. 24, {ss. 31\(3\)\(a\)}, 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F9** Word in s. 146(2) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(3\)\(a\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F10** Words in s. 146(2)(b) inserted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 31\(3\)\(b\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F11** Words in s. 146(2)(4) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(2\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F12** Words in s. 146(2) inserted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(3\)\(b\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F13** S. 146(2A)-(2D) inserted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 31\(4\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F14** Words in s. 146(3) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, [2\(1\)\(3\)](#); S.I. 1999/2830, [art. 2\(1\)](#), [Sch. 1 Pt. I](#) (with Sch. 3 para. 1)
- F15** Words in s. 146(3) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(4\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F16** Words in s. 146(4) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, [2\(1\)\(4\)](#); S.I. 1999/2830, [art. 2\(1\)](#), [Sch. 1 Pt. I](#) (with Sch. 3 para. 1)
- F17** Words in s. 146(5) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(5\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)
- F18** Words in s. 146(5) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, [2\(1\)\(5\)](#); S.I. 1999/2830, [art. 2\(1\)](#), [Sch. 1 Pt. I](#) (with Sch. 3 para. 1)
- F19** S. 146(5A) substituted for s. 146(6) (1.10.2004) by [Employment Relations Act 2004 \(c. 24\), ss. 30\(6\), 59\(2\)-\(4\)](#); S.I. 2004/2566, [art. 3\(a\)](#) (with arts. 4-8)

Modifications etc. (not altering text)

- C1** S. 146 modified (E.W.) (2.3.1998) by S.I. 1998/218, [art. 3, Sch.](#)
S. 146 modified (1.9.1999) by 1999/2256, [art. 3, Sch.](#)
- C2** S. 146 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), [art. 3, Sch.](#)
- C3** S. 146 modified (W.) (12.5.2006) by [The Education \(Modification of Enactments Relating to Employment\) \(Wales\) Order 2006 \(S.I. 2006/1073\)](#), [art. 3, Sch.](#)

147 Time limit for proceedings.

[^{F20}(1)]An [^{F21}employment tribunal] shall not consider a complaint under section 146 unless it is presented—

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- (a) before the end of the period of three months beginning with the date of the [F22act or failure to which the complaint relates or, where that act or failure is part of a series of similar acts or failures (or both) the last of them] , or
- (b) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period, within such further period as it considers reasonable.

[F23(2) For the purposes of subsection (1)—

- (a) where an act extends over a period, the reference to the date of the act is a reference to the last day of that period;
- (b) a failure to act shall be treated as done when it was decided on.

F23(3) For the purposes of subsection (2), in the absence of evidence establishing the contrary an employer shall be taken to decide on a failure to act—

- (a) when he does an act inconsistent with doing the failed act, or
- (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.]

[F24(4) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (1)(a).]

Textual Amendments

- F20** S. 147: "(1)" inserted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, **3(1)(2)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 1)
- F21** Words in s. 147(1) 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**
- F22** Words in s. 147(1)(a) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, **3(3)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 1)
- F23** S. 147(2)(3) inserted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, **3(4)**; S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with Sch. 3 para. 1)
- F24** S. 147(4) inserted (6.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 2 para. 8**; S.I. 2014/253, art. 3(g)

Modifications etc. (not altering text)

- C4** S. 147 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, **Sch.**
 S. 147 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**
- C5** S. 147 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, **Sch.**
- C6** S. 147 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), art. 3, **Sch.**

148 Consideration of complaint.

- (1) On a complaint under section 146 it shall be for the employer to show [F25what was the sole or main purpose] for which [F26he acted or failed to act]
- (2) In determining any question whether [F27the employer acted or failed to act, or the purpose for which he did so], no account shall be taken of any pressure which was exercised on him by calling, organising, procuring or financing a strike or other

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industrial action, or by threatening to do so; and that question shall be determined as if no such pressure had been exercised.

- (3) ^{F28}
- (4) ^{F28}
- (5) ^{F28}

Textual Amendments

- F25** Words in s. 148(1) substituted (1.10.2004) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 57(1), 59(2)-(4), [Sch. 1 para. 9](#); S.I. 2004/2566, [art. 3\(b\)](#) (with arts. 4-8)
- F26** Words in s. 148(1) substituted (25.10.1999) by 1999 c. 26, s. 2, [Sch. 2 paras. 1, 4\(1\)\(2\)](#); S.I. 1999/2830, [art. 2\(1\)](#), [Sch. 1 Pt. I](#) (with [Sch. 3 para. 1](#))
- F27** Words in s. 148(2) substituted (25.10.1999) by 1999 c. 26, s. 2, [Sch. 2 para. 4\(3\)](#); S.I. 1999/2830, [art. 2\(1\)\(2\)](#), [Sch. 1 Pt. I](#) (with [Sch. 3 para. 1](#))
- F28** S. 148(3)-(5) repealed (1.10.2004) by [Employment Relations Act 2004 \(c. 24\)](#), ss. 31(5), 57(2), 59(2)-(4), [Sch. 2](#); S.I. 2004/2566, [art. 3\(b\)\(c\)](#) (with arts. 4-8)

149 Remedies.

- (1) Where the [^{F29}employment tribunal] finds that a complaint under section 146 is well-founded, it shall make a declaration to that effect and may make an award of compensation to be paid by the employer to the complainant in respect of the [^{F30}act or failure] complained of.
- (2) The amount of the compensation awarded shall be such as the tribunal considers just and equitable in all the circumstances having regard to the infringement complained of and to any loss sustained by the complainant which is attributable to the [^{F30}act or failure] which infringed his right.
- (3) The loss shall be taken to include—
 - (a) any expenses reasonably incurred by the complainant in consequence of the [^{F30}act or failure] complained of, and
 - (b) loss of any benefit which he might reasonably be expected to have had but for that [^{F30}act or failure].
- (4) In ascertaining the loss, the 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 Scotland.
- (5) In determining the amount of compensation to be awarded no account shall be taken of any pressure which was exercised on the employer by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so; and that question shall be determined as if no such pressure had been exercised.
- (6) Where the tribunal finds that the [^{F30}act or failure] complained of was to any extent caused or contributed to by action of the complainant, it shall reduce the amount of the compensation by such proportion as it considers just and equitable having regard to that finding.

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Textual Amendments

- F29** Words in s. 149(1) 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
- F30** Words in s. 149(1)-(3)(6) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, 5; S.I. 1999/2830, art. 2(1)(2), Sch. 1 Pt. I (with Sch. 3 para. 1)

150 Awards against third parties.

- (1) If in proceedings on a complaint under section 146—
- (a) the complaint is made on the ground that [^{F31}the complainant has been subjected to detriment by an act or failure by his employer taking place] for [^{F32}the sole or main purpose] of compelling him to be or become a member of any trade union or of a particular trade union or of one of a number of particular trade unions, and
 - (b) either the complainant or the employer claims in proceedings before the tribunal that the employer was induced to [^{F33}act or fail to act in the way]complained of by pressure which a trade union or other person exercised on him by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so,
- the complainant or the employer may request the tribunal to direct that the person who he claims exercised the pressure be joined or sisted as a party to the proceedings.
- (2) The request shall be granted if it is made before the hearing of the complaint begins, but may be refused if it is made after that time; and no such request may be made after the tribunal has made a declaration that the complaint is well-founded.
- (3) Where a person has been so joined or sisted as a party to proceedings and the tribunal—
- (a) makes an award of compensation, and
 - (b) finds that the claim mentioned in subsection (1)(b) is well-founded,
- it may order that the compensation shall be paid by the person joined instead of by the employer, or partly by that person and partly by the employer, as the tribunal may consider just and equitable in the circumstances.

Textual Amendments

- F31** Words in s. 150(1)(a) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, 6(a); S.I. 1999/2830, art 2(1), Sch. 2 Pt. I (with Sch. 3 para. 1)
- F32** Words in s. 150(1)(a) substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), Sch. 1 para. 10; S.I. 2004/2566, art. 3(b) (with arts. 4-8)
- F33** Words in s. 150(1)(b) substituted (25.10.1999) by 1999 c. 26, s. 2, Sch. 2 paras. 1, 6(b); S.I. 1999/2830, art. 2(1), Sch. 2 Pt. I. (with Sch. 3 para. 1)

151 Interpretation and other supplementary provisions.

- (1) References in sections 146 to 150 to being, becoming or ceasing to remain a member of a trade union include references to being, becoming or ceasing to remain a member of a particular branch or section of that union and to being, becoming or ceasing to remain a member of one of a number of particular branches or sections of that union

^{F34}

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[^{F35}(1A) References in those sections—

- (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 subsection (1).]

[^{F36}(1B) In sections 146 to 150—

“worker” means an individual who works, or normally works, as mentioned in paragraphs (a) to (c) of section 296(1), and

“employer” means—

- (a) in relation to a worker, the person for whom he works;
- (b) in relation to a former worker, the person for whom he worked.]

(2) The remedy of [^{F37}a person] for infringement of the right conferred on him by section 146 is by way of a complaint to an [^{F38}employment tribunal] in accordance with this Part, and not otherwise.

Textual Amendments

- F34** Words in s. 151(1) repealed (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 31(6), 57(2), 59(2)-(4), Sch. 2; S.I. 2004/2566, art. 3(a)(e) (with arts. 4-8)
- F35** S. 151(1A) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 31(7), 59(2)-(4); S.I. 2004/2566, art. 3(a) (with arts. 4-8)
- F36** S. 151(1B) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 30(8), 59(2)-(4); S.I. 2004/2566, art. 3(a) (with arts. 4-8)
- F37** Words in s. 151(2) substituted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 30(9), 59(2)-(4); S.I. 2004/2566, art. 3(a) (with arts. 4-8)
- F38** Words in s. 151(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

Changes to legislation:

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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](#)