



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART III

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

##### *Exclusion or expulsion from trade union where employment subject to union membership agreement*

#### 176 Remedies

- (1) Where the industrial tribunal finds a complaint under section 174 is well-founded, it shall make a declaration to that effect.
- (2) A person whose complaint has been declared to be well-founded may make an application for an award of compensation to be paid to him by the union.

The application shall be made to an industrial tribunal if when it is made the applicant has been admitted or re-admitted to membership of the union, and otherwise to the Employment Appeal Tribunal.

- (3) The application shall not be entertained if made—
  - (a) before the end of the period of four weeks beginning with the date of the declaration, or
  - (b) after the end of the period of six months beginning with that date.
- (4) The amount of compensation awarded by an industrial tribunal shall be such as it considers appropriate to compensate the applicant for the loss sustained by him in consequence of the refusal or expulsion complained of.

The amount of the compensation 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 Employment Protection

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*Status: This is the original version (as it was originally enacted).*

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- (Consolidation) Act 1978 (maximum amount of a week's pay for 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).
- (5) The amount of compensation awarded by the Employment Appeal Tribunal shall be such as it considers just and equitable in all the circumstances.
- The amount of the compensation shall not exceed the aggregate of—
- (a) the aggregate amount mentioned in subsection (4), and
- (b) an amount equal to fifty-two times the limit for the time being imposed by paragraph 8(1)(a) of Schedule 14 to the Employment Protection (Consolidation) Act 1978 (maximum amount of a week's pay for additional award of compensation in unfair dismissal cases),
- and shall not be less than the amount for the time being specified in section 156(1) (minimum basic award).
- (6) In determining the amount of compensation to be awarded, the industrial tribunal or 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 Scotland.
- (7) Where the industrial tribunal or Employment Appeal Tribunal finds that the refusal or expulsion complained of was to any extent caused or contributed to by action of the applicant, it shall reduce the amount of compensation by such proportion as it considers just and equitable having regard to that finding.
- (8) In determining the amount of compensation to be awarded, any reduction or increase under subsection (4) or (5) shall be made before—
- (a) any reduction by virtue of subsection (6) or (7), or
- (b) any reduction on account of sums already paid by the union by way of compensation in respect of the subject matter of the application;
- and accordingly, where the case so required the reductions mentioned in paragraphs (a) and (b) shall be made to the maximum or, as the case may be, minimum award under subsection (4) or (5).