TU RULES - *Rules were regarded as unlawful at common law and could give rise to charges of criminal conspiracy. S.11 TULR(C)A states that the rules will not be unenforceable/void as a restraint of trade. TU (LE) to adopt own rules if within statutory framework. Rules between TU and members are contractual. *Taking disciplinary action against a member: Power to discipline/expense impose fines must be contained in rules. *Courts can imply disciplinary powers into rules in certain circumstances. *McLennan v UNISON *Procedure for disciplining a member will be followed. *TU cannot oust the jurisdiction of the courts. *If there is an appeal procedure and member excluded without allowing appeal, will be invalid. *Expelled member can seek declaration, injunction and damages from the courts.*Rights of members & liability for TU - if rules provide right to legal advice and none provided/negligent: TU used for damages. Failure to properly advise/submit claim at ET will see TU liable.*Ability of officers to penalise action by TU officials must be contained in rules. Vardy v Amalgamated Union of Electrical Workers. This covers payment of strike money not contained in rules and imposing a levy whose purpose is ultra vires. If TU takes action which benefit majority, minority who are not benefited can bring action eg TU need to be mindful of equality to their members. TU GOVERNANCE*Executive Committee - Governed by s.46 TULR(C)A. Elected by a ballot every 5 years. *Every member of the TU can vote except: Excluded class under the list. Members not in employment. Members in arrears. Student/apprentice members. *Accounts and records: Duty to keep accounts and records s.28. *An annual financial statement must be sent to all members.*It is like a trust system.*Similarly, remedies against trustees - Property held on trust by trustees. *It provides a remedy against trustees.* Allows for removal of trustees. *It is possible for TU to collect political fund and political objects - Amalgamated Society of Railway Servants v Osborne. *Legal for TU to have a political fund and pursue political objects under ss.71-74. Trade Union Act 1913.* Requirement for a ballot by all members every 10 years.*Members can contribute to fund but no other TU assets can be added *Members can contract out of contributing to fund.*Fund can be used to finance political parties, support candidates, literature and pay for conferences. *Labour party receives considerable funds from TU’s hence role of TU in running of the party. NU can support Conservatives or Liberal Democrats. *TU under a duty to keep a register of members - s.24 TULR(C)A stipulates this requirement. Rights of the members: Confidentiality (s.24A); Limited disclosure: consent, required by certification officer, and investigation a crime. *TU MEMBERSHIP*TU’s duty to be inclusive who is to join. This might be included in their rules. Tends to be particular workforce. *Cannot accept membership from those outside class* or create additional class outside TU’s rules: Marvin v Scottish Transport and General Workers Union *Can create a closed class in rules.*Limits on restricting membership: Cannot exclude membership or arbitrary and unreasonable grounds. Cannot discriminate/resist benefits on grounds of sex or race: this will now be governed by the Equality Act 2010. *S.174 TULR(C)A prevents exclusion/expulsion if this is against statute. TU MEMBERSHIP RIGHTS*Access to employment; Indemnity relating to TU membership or activities; Action short of dismissal; Time off for work for trade union duties; Time off for work for trade union activities; Dismissal on grounds of trade union activities membership; Dismissal in connection with industrial action.*Access to employment: s.137(1) *When a person will be regarded as having refused employment: S.137(5) if the employee: *A claim can then be made to the Employment Tribunal within 3 months of the act complained of. S.137 prevents closed shops within the UK.*TU blacklists: Consulting Association he employees. *Employer must allow member of a recognised TU time off work to undertake relevant activities *Reasonableness depends on the context.*Employer’s have to be careful to how they treat their staff in this way. Emee can be not dismissed if they have followed correct procedure re strike action. MEMBERSHIP RIGHTS – INDUSTRIAL ACTION. *Dismissal in connection with industrial action: dismissal where emee incurs a lockout (s238(1)) - employer protection of breaching lockout duty; or s239 - mostly to protect management for their interests.*An extension of that is dismissal where emee refusal to work protect managing (s239-2)**s239-2** protection more for emee, but emee cannot pick/choose who to dismiss if that is the reason for their misconduct. Must follow fair procedure; *TU supports industrial action that is protected (s219 excluded these).* Members lose statutory protection. This is worse: case for members, as a lot of time it transpires after strike that they were not protected, and subsequently they are lawfully dismissed'; official protected strike protection afforded to members under ss.238A. – emee could lose pay in this situation.

ET - LEGAL FRAMEWORK*Governed by the Employment Tribunals Act 1996*Constitution and procedure contained in the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004*Statutory claims (such as unfair dismissal and discrimination) can only be brought before the Employment Tribunals. *Unfair dismissal and discrimination can be brought before the ET within 3 months (discrimination, UD, WD), or 6 months (equal pay).*Extend time limit when not reasonably practical (out the country, pt not unto the court by end of month). *Not reasonable to delay act and unenforceable. NOT REASONABLE PRACTICABLE TEST. 28 days can be extended if more than one member. *You can ask for directions before ET.*Cannot be made to the Employment Tribunal for breach of collective terms. *No extension of that is dismissal where emee refusal to work or TU blacklists: Consulting Association he employees. *Employer must allow member of a recognised TU time off work to undertake relevant activities *Reasonableness depends on the context.*Employer’s have to be careful to how they treat their staff in this way. Emee can be not dismissed if they have followed correct procedure re strike action. MEMBERSHIP RIGHTS – INDUSTRIAL ACTION. *Dismissal in connection with industrial action: dismissal where emee incurs a lockout (s238(1)) - employer protection of breaching lockout duty; or s239 - mostly to protect management for their interests.*An extension of that is dismissal where emee refusal to work protect managing (s239-2)**s239-2** protection more for emee, but emee cannot pick/choose who to dismiss if that is the reason for their misconduct. Must follow fair procedure; *TU supports industrial action that is protected (s219 excluded these).* Members lose statutory protection. This is worse: case for members, as a lot of time it transpires after strike that they were not protected, and subsequently they are lawfully dismissed'; official protected strike protection afforded to members under ss.238A. – emee could lose pay in this situation.

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