



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART V

INDUSTRIAL ACTION

Loss of unfair dismissal protection

239 Supplementary provisions relating to unfair dismissal.

- (1) [^{F1}Sections 237 to 238A](loss of unfair dismissal protection in connection with industrial action) shall be construed as one with [^{F2}Part X of the Employment Rights Act 1996] (unfair dismissal) [^{F3}; but sections 108 and 109 of that Act (qualifying period and age limit) shall not apply in relation to section 238A of this Act.].
- (2) In relation to a complaint to which section 238 [^{F4}or 238A] applies, [^{F5}section 111(2)] of that Act (time limit for complaint) does not apply, but an [^{F6}employment tribunal] shall not consider the complaint unless it is presented to the tribunal—
 - (a) before the end of the period of six months beginning with the date of the complainant's dismissal (as defined by section 238(5)), 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 the tribunal considers reasonable.
- (3) Where it is shown that the condition referred to in section 238(2)(b) is fulfilled (discriminatory re-engagement), the references in—
 - (a) [^{F7}sections 98 to 106 of the Employment Rights Act 1996], and
 - (b) sections 152 and 153 of this Act,

to the reason or principal reason for which the complainant was dismissed shall be read as references to the reason or principal reason he has not been offered re-engagement.

Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Section 239 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F8}(4) In relation to a complaint under section 111 of the 1996 Act (unfair dismissal: complaint to employment tribunal) that a dismissal was unfair by virtue of section 238A of this Act—
- (a) no order shall be made under section 113 of the 1996 Act (reinstatement or re-engagement) until after the conclusion of protected industrial action by any employee in relation to the relevant dispute,
 - (b) regulations under section 7 of the Employment Tribunals Act 1996 may make provision about the adjournment and renewal of applications (including provision requiring adjournment in specified circumstances), and
 - (c) regulations under section 9 of that Act may require a pre-hearing review to be carried out in specified circumstances.]

Textual Amendments

- F1** Words in s. 239(1) substituted (24.4.2000) by 1999 c. 26, s. 16, **Sch. 5 para. 4(1)(2)**; S.I. 2000/875, **art. 3**
- F2** Words in s. 239(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 56(16)(a)** (with ss. 191-195, 202)
- F3** Words in s. 239(1) added (24.4.2000) by 1999 c. 26, s. 16, **Sch. 5 para. 4(1)(3)**; S.I. 2000/875, **art. 3**
- F4** Words in s. 239(2) inserted (24.4.2000) by 1999 c. 26, s. 16, **Sch. 5 para. 4(1)(4)**; S.I. 2000/875, **art. 3**
- F5** Words in s. 239(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 56(16)(b)** (with ss. 191-195, 202)
- F6** Words in s. 239(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**
- F7** Words in s. 239(3) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 56(16)(c)** (with ss. 191-195, 202)
- F8** S. 239(4) added (24.4.2000) by 1999 c. 26, s. 16, **Sch. 5 para. 4(1)(5)**; S.I. 2000/875, **art. 3**

Changes to legislation:

Trade Union and Labour Relations (Consolidation) Act 1992, Section 239 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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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](#)