



Employment Rights (Dispute Resolution) Act 1998

1998 CHAPTER 8

PART I

EMPLOYMENT TRIBUNALS

Other provisions

5 Legal officers

After subsection (6A) of section 4 of the Employment Tribunals Act 1996 (which is inserted by section 3(6) of this Act) insert—

“(6B) Employment tribunal procedure regulations may (subject to subsection (6C)) also provide that any act which—

- (a) by virtue of subsection (6) may be done by the person mentioned in subsection (1)(a) alone, and
- (b) is of a description specified by the regulations for the purposes of this subsection,

may be done by a person appointed as a legal officer in accordance with regulations under section 1(1); and any act so done shall be treated as done by an employment tribunal.

(6C) But regulations under subsection (6B) may not specify—

- (a) the determination of any proceedings, other than proceedings in which the parties have agreed the terms of the determination or in which the person bringing the proceedings has given notice of the withdrawal of the case, or
- (b) the carrying-out of pre-hearing reviews in accordance with regulations under section 9(1).”

6 Jurisdiction in cases about political fund contributions

For section 87 of the Trade Union and Labour Relations (Consolidation) Act 1992 (which provides that a person who alleges that his employer has failed to comply with section 86 of that Act by wrongly deducting a political fund contribution or refusing to deduct union dues may make an application to a county court or sheriff court) substitute—

“87 Complaint in respect of employer’s failure

- (1) A person who claims his employer has failed to comply with section 86 in deducting or refusing to deduct any amount from emoluments payable to him may present a complaint to an employment tribunal.
- (2) A tribunal shall not consider a complaint under subsection (1) unless it is presented—
 - (a) within the period of three months beginning with the date of the payment of the emoluments or (if the complaint relates to more than one payment) the last of the payments, or
 - (b) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented within that period, within such further period as the tribunal considers reasonable.
- (3) Where on a complaint under subsection (1) arising out of subsection (3) (refusal to deduct union dues) of section 86 the question arises whether the employer’s refusal to deduct an amount was attributable to the giving of the certificate or was otherwise connected with the duty imposed by subsection (1) of that section, it is for the employer to satisfy the tribunal that it was not.
- (4) Where a tribunal finds that a complaint under subsection (1) is well-founded—
 - (a) it shall make a declaration to that effect and, where the complaint arises out of subsection (1) of section 86, order the employer to pay to the complainant the amount deducted in contravention of that subsection less any part of that amount already paid to him by the employer, and
 - (b) it may, if it considers it appropriate to do so in order to prevent a repetition of the failure, make an order requiring the employer to take, within a specified time, the steps specified in the order in relation to emoluments payable by him to the complainant.
- (5) A person who claims his employer has failed to comply with an order made under subsection (4)(b) on a complaint presented by him may present a further complaint to an employment tribunal; but only one complaint may be presented under this subsection in relation to any order.
- (6) A tribunal shall not consider a complaint under subsection (5) unless it is presented—
 - (a) after the end of the period of four weeks beginning with the date of the order, but
 - (b) before the end of the period of six months beginning with that date.
- (7) Where on a complaint under subsection (5) a tribunal finds that an employer has, without reasonable excuse, failed to comply with an order made under subsection (4)(b), it shall order the employer to pay to the complainant an amount equal to two weeks' pay.

- (8) Chapter II of Part XIV of the Employment Rights Act 1996 (calculation of a week's pay) applies for the purposes of subsection (7) with the substitution for section 225 of the following—

For the purposes of this Chapter in its application to subsection (7) of section 87 of the Trade Union and Labour Relations (Consolidation) Act 1992, the calculation date is the date of the payment, or (if more than one) the last of the payments, to which the complaint related.”