



# Children and Families Act 2014

## 2014 CHAPTER 6

### PART 9

#### RIGHT TO REQUEST FLEXIBLE WORKING

#### **131 Removal of requirement to be a carer**

- (1) In section 80F(1) of the Employment Rights Act 1996 (conditions for exercising right to request flexible working), paragraph (b) (condition that employee's purpose be to enable caring for a child or adult) is repealed.
- (2) Section 80F is further amended as follows—
  - (a) in subsection (1), the “and” following paragraph (a) is repealed;
  - (b) in subsection (2), after paragraph (b) there is inserted “and”;
  - (c) in subsection (2), paragraph (d) and the “and” preceding it are repealed;
  - (d) subsection (10) is repealed.

#### **132 Dealing with applications**

- (1) Section 80G of the Employment Rights Act 1996 (employer's duties in relation to an application for flexible working) is amended as follows.
- (2) In subsection (1), for paragraph (a) (requirement to deal with application in accordance with regulations) there is substituted—
  - “(a) shall deal with the application in a reasonable manner,
  - (aa) shall notify the employee of the decision on the application within the decision period, and”.
- (3) After subsection (1) there is inserted—
  - “(1A) If an employer allows an employee to appeal a decision to reject an application, the reference in subsection (1)(aa) to the decision on the application is a reference to—
    - (a) the decision on the appeal, or

- (b) if more than one appeal is allowed, the decision on the final appeal.
- (1B) For the purposes of subsection (1)(aa) the decision period applicable to an employee's application under section 80F is—
  - (a) the period of three months beginning with the date on which the application is made, or
  - (b) such longer period as may be agreed by the employer and the employee.
- (1C) An agreement to extend the decision period in a particular case may be made—
  - (a) before it ends, or
  - (b) with retrospective effect, before the end of a period of three months beginning with the day after that on which the decision period that is being extended came to an end.”
- (4) After subsection (1C) (as inserted by subsection (3)) there is inserted—
 

“(1D) An application under section 80F is to be treated as having been withdrawn by the employee if—

  - (a) the employee without good reason has failed to attend both the first meeting arranged by the employer to discuss the application and the next meeting arranged for that purpose, or
  - (b) where the employer allows the employee to appeal a decision to reject an application or to make a further appeal, the employee without good reason has failed to attend both the first meeting arranged by the employer to discuss the appeal and the next meeting arranged for that purpose,

and the employer has notified the employee that the employer has decided to treat that conduct of the employee as a withdrawal of the application.”
- (5) In the Employment Rights Act 1996, the following are repealed—
  - (a) section 47E(1)(b);
  - (b) section 80G(2) to (4);
  - (c) section 80H(4);
  - (d) in section 80I(4), the words “, and the regulations under that section,”;
  - (e) section 104C(1)(b).

### **133 Complaints to employment tribunals**

- (1) Section 80H of the Employment Rights Act 1996 (complaints to employment tribunals) is amended as follows.
- (2) In subsection (1) (grounds of complaint)—
  - (a) the “or” after paragraph (a) is repealed;
  - (b) after paragraph (b) there is inserted “, or
  - (c) that the employer's notification under section 80G(1D) was given in circumstances that did not satisfy one of the requirements in section 80G(1D)(a) and (b).”

- (3) In subsection (2) (no complaints under section 80H in respect of an application disposed of by agreement or withdrawn), for “under this section” there is substituted “under subsection (1)(a) or (b)”.
- (4) For subsection (3) (no complaints to be made until the employer rejects an application on appeal or contravenes specified regulations under section 80G(1)(a)) there is substituted—
  - “(3) In the case of an application which has not been disposed of by agreement or withdrawn, no complaint under subsection (1)(a) or (b) may be made until—
    - (a) the employer notifies the employee of the employer’s decision on the application, or
    - (b) if the decision period applicable to the application (see section 80G(1B)) comes to an end without the employer notifying the employee of the employer’s decision on the application, the end of the decision period.
- (3A) If an employer allows an employee to appeal a decision to reject an application, a reference in other subsections of this section to the decision on the application is a reference to the decision on the appeal or, if more than one appeal is allowed, the decision on the final appeal.
- (3B) If an agreement to extend the decision period is made as described in section 80G(1C)(b), subsection (3)(b) is to be treated as not allowing a complaint until the end of the extended period.”
- (5) After subsection (3B) (as inserted by subsection (4)) there is inserted—
  - “(3C) A complaint under subsection (1)(c) may be made as soon as the notification under section 80G(1D) complained of is given to the employee.”
- (6) In subsection (6) (meaning of the relevant date), from “relevant date” to the end there is substituted “relevant date is a reference to the first date on which the employee may make a complaint under subsection (1)(a), (b) or (c), as the case may be.”

## **134 Review of sections 131 to 133**

- (1) The Secretary of State must from time to time—
  - (a) carry out a review of sections 131 to 133,
  - (b) set out the conclusions of the review in a report, and
  - (c) publish the report.
- (2) The report must in particular—
  - (a) set out the objectives intended to be achieved by the amendments of the Employment Rights Act 1996 made by sections 131 to 133,
  - (b) assess the extent to which those objectives are achieved, and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a way that imposes less regulation.
- (3) The first report to be published under this section must be published before the end of the period of seven years beginning with the day on which sections 131 to 133 come into force.

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

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- (4) Reports under this section are afterwards to be published at intervals not exceeding seven years.