



Employment Rights Act 1996

1996 CHAPTER 18

[^{F1}PART 8A

FLEXIBLE WORKING

[^{F1}80H Complaints to employment tribunals

- (1) An employee who makes an application under section 80F may present a complaint to an employment tribunal—
 - (a) that his employer has failed in relation to the application to comply with section 80G(1), ^{F2} ...
 - (b) that a decision by his employer to reject the application was based on incorrect facts^{F3}, or]
[that the employer's notification under section 80G(1D) was given in
^{F3}(c) circumstances that did not satisfy one of the requirements in section 80G(1D) (a) and (b)].
- (2) No complaint [^{F4}under subsection (1)(a) or (b)] may be made in respect of an application which has been disposed of by agreement or withdrawn.
- [^{F5}(3) In the case of an application which has not been disposed of by agreement or withdrawn, no complaint under subsection (1)(a) or (b) may be made until—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.

Changes to legislation: Employment Rights Act 1996, Section 80H is up to date with all changes known to be in force on or before 23 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

(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.]

[A complaint under subsection (1)(c) may be made as soon as the notification under ^{F6}(3C) section 80G(1D) complained of is given to the employee.]

^{F7}(4)

(5) An employment tribunal shall not consider a complaint under this section unless it is presented—

- (a) before the end of the period of three months beginning with the relevant date, or
- (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.

(6) In subsection (5)(a), the reference to the [^{F8}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.]

[^{F9}(7) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (5)(a).]]

Textual Amendments

- F1** Pt. 8A inserted (6.4.2003) by [Employment Act 2002 \(c. 22\)](#), s. 47(2); S.I. 2002/2866, art. 2(3), Sch. 1 Pt. 3
- F2** Word in s. 80H(1) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. 133(2)(a), 139(6); S.I. 2014/1640, art. 3(1)(m) (with art. 10)
- F3** S. 80H(1)(c) and word preceding it inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. 133(2)(b), 139(6); S.I. 2014/1640, art. 3(1)(m) (with art. 10)
- F4** Words in s. 80H(2) substituted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. 133(3), 139(6); S.I. 2014/1640, art. 3(1)(m) (with art. 10)
- F5** S. 80H(3)-(3B) substituted for s. 80H(3) (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. 133(4), 139(6); S.I. 2014/1640, art. 3(1)(m) (with art. 10)
- F6** S. 80H(3C) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. 133(5), 139(6); S.I. 2014/1640, art. 3(1)(m) (with art. 10)
- F7** S. 80H(4) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. 132(5)(e), 139(6); S.I. 2014/1640, art. 3(1)(l) (with art. 10)
- F8** Words in s. 80H(6) substituted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. 133(6), 139(6); S.I. 2014/1640, art. 3(1)(m) (with art. 10)
- F9** S. 80H(7) substituted (31.12.2020) by [The Cross-Border Mediation \(EU Directive\) \(EU Exit\) Regulations 2019 \(S.I. 2019/469\)](#), reg. 1(1), **Sch. 1 para. 12(22)** (with reg. 5) (as amended by S.I. 2020/1493, regs. 1(1), 4(5)(6)); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

Employment Rights Act 1996, Section 80H is up to date with all changes known to be in force on or before 23 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):

- Pt. 8 Ch. 5 inserted by [2023 c. 20 Sch. para. 2](#)
- Pt. 8A Ch. 1 heading inserted by [2023 c. 46 s. 1\(3\)](#)
- Pt. 8A Ch. 2 inserted by [2023 c. 46 s. 1\(4\)](#)
- Pt. 8A Ch. 3 inserted by [2023 c. 46 s. 2](#)
- Pt. 8A Ch. 4 inserted by [2023 c. 46 s. 3\(2\)](#)
- s. 43K(1)(ca) and word omitted by [2013 c. 24 s. 20\(5\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 43K(2)(ba) omitted by [2013 c. 24 s. 20\(6\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 47C(2)(cc) inserted by [2023 c. 20 Sch. para. 22](#)
- s. 47H inserted by [2020 c. 7 Sch. 7 para. 9](#)
- s. 47AA inserted by [2008 c. 25 s. 37](#)
- s. 47EA inserted by [2023 c. 46 Sch. para. 4](#)
- s. 47EB inserted by [2023 c. 46 Sch. para. 5](#)
- s. 48(1C) inserted by [2020 c. 7 Sch. 7 para. 10\(a\)](#)
- s. 48(1C) inserted by [2023 c. 46 Sch. para. 6\(2\)](#)
- s. 48(1D) inserted by [2023 c. 46 Sch. para. 6\(3\)](#)
- s. 49(8) inserted by [2020 c. 7 Sch. 7 para. 11\(b\)](#)
- s. 49(8) inserted by [2023 c. 46 Sch. para. 7\(4\)](#)
- s. 49C inserted by [2017 c. 16 s. 32\(4\)](#)
- s. 75I(3)(g) and word inserted by [2023 c. 20 Sch. para. 23\(b\)](#)
- s. 80C(2)(bc) inserted by [2023 c. 20 Sch. para. 24\(2\)](#)
- s. 80C(4)(bc) inserted by [2023 c. 20 Sch. para. 24\(3\)](#)
- s. 80EB(2)(f) and word inserted by [2023 c. 20 Sch. para. 25\(b\)](#)
- s. 99(3)(cc) inserted by [2023 c. 20 Sch. para. 28](#)
- s. 101B inserted by [2008 c. 25 s. 38](#)
- s. 104H inserted by [2020 c. 7 Sch. 7 para. 14](#)
- s. 104CA inserted by [2023 c. 46 Sch. para. 9](#)
- s. 105(4B) inserted by [2008 c. 25 s. 39\(3\)](#)
- s. 105(7BC) inserted by [2020 c. 7 Sch. 7 para. 15](#)
- s. 105(7BAA) inserted by [2023 c. 46 Sch. para. 10](#)
- s. 108(3)(gia) inserted by [2023 c. 46 Sch. para. 11](#)
- s. 108(3)(de) inserted by [2008 c. 25 s. 39\(4\)](#)
- s. 108(3)(gn) inserted by [2020 c. 7 Sch. 7 para. 16](#)
- s. 110(3A) inserted by [2002 c. 22 s. 44](#)
- s. 163(6) inserted by [2022 c. 35 Sch. 5 para. 27](#)
- s. 205A(2)(ba) inserted by [2023 c. 46 Sch. para. 16\(2\)](#)
- s. 205A(8A) inserted by [2023 c. 46 Sch. para. 16\(3\)](#)
- s. 225(7)(8) inserted by [2023 c. 46 Sch. para. 17](#)
- s. 227(1)(zb)(zc) inserted by [2023 c. 46 Sch. para. 18](#)