



Employment Act 2002

2002 CHAPTER 22

PART 3

DISPUTE RESOLUTION ETC.

Statutory procedures

34 Procedural fairness in unfair dismissal

(1) Part 10 of the Employment Rights Act 1996 (c. 18) (unfair dismissal) is amended as follows.

^{F1}(2)

(3) In section 112 (the remedies: orders and compensation), at the end there is inserted—

“(5) Where—

(a) an employee is regarded as unfairly dismissed by virtue of section 98A(1) (whether or not his dismissal is unfair or regarded as unfair for any other reason), and

(b) an order is made in respect of the employee under section 113, the employment tribunal shall, subject to subsection (6), also make an award of four weeks’ pay to be paid by the employer to the employee.

(6) An employment tribunal shall not be required to make an award under subsection (5) if it considers that such an award would result in injustice to the employer.”

(4) In section 117 (under which an award of compensation falls to be made if an employee is reinstated or re-engaged in pursuance of an order under section 113, but the terms of the order are not fully complied with), after subsection (2) there is inserted—

“(2A) There shall be deducted from any award under subsection (1) the amount of any award made under section 112(5) at the time of the order under section 113.”

Changes to legislation: Employment Act 2002, Section 34 is up to date with all changes known to be in force on or before 21 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

(5) In section 123 (compensatory award) at the end there is inserted—

“(8) Where the amount of the compensatory award falls to be calculated for the purposes of an award under section 117(3)(a), there shall be deducted from the compensatory award any award made under section 112(5) at the time of the order under section 113.”

(6) In section 120 (basic award: minimum in certain cases) after subsection (1) there is inserted—

“(1A) Where—

- (a) an employee is regarded as unfairly dismissed by virtue of section 98A(1) (whether or not his dismissal is unfair or regarded as unfair for any other reason),
- (b) an award of compensation falls to be made under section 112(4), and
- (c) the amount of the award under section 118(1)(a), before any reduction under section 122(3A) or (4), is less than the amount of four weeks’ pay,

the employment tribunal shall, subject to subsection (1B), increase the award under section 118(1)(a) to the amount of four weeks’ pay.

(1B) An employment tribunal shall not be required by subsection (1A) to increase the amount of an award if it considers that the increase would result in injustice to the employer.”

Textual Amendments

F1 S. 34(2) repealed (6.4.2009) by [Employment Act 2008 \(c. 24\)](#), s. 22(1)(a), [Sch. Pt. 1](#); [S.I. 2008/3232](#), art. 2 (with [art. 3Sch.](#))

Commencement Information

I1 S. 34 in force at 1.10.2004 by [S.I. 2004/1717](#), [art. 2\(2\)](#)

Changes to legislation:

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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. 7(3)(e) and word inserted by [2023 c. 20 Sch. para. 36\(4\)\(c\)](#)
- s. 15(2)(bb) word omitted by [2023 c. 20 Sch. para. 43\(a\)](#)
- s. 15(2)(bc) inserted by [2023 c. 20 Sch. para. 43\(b\)](#)