



# Workers (Predictable Terms and Conditions) Act 2023

## 2023 CHAPTER 46

### **1 Workers (except agency workers): right to request predictable work pattern**

- (1) The Employment Rights Act 1996 is amended in accordance with this section.
- (2) For the title of Part 8A substitute—

*“RIGHTS TO REQUEST CHANGES TO TERMS AND CONDITIONS ETC”*

- (3) Before section 80F insert—  
“CHAPTER 1

*FLEXIBLE WORKING”*

- (4) After section 80I insert—

### **“CHAPTER 2**

**PREDICTABLE WORK PATTERN: WORKERS (EXCEPT AGENCY WORKERS)**

#### **80IA Statutory right to request predictable work pattern**

- (1) A worker may apply to the worker’s employer for a change in terms and conditions of employment if—
  - (a) there is a lack of predictability, in relation to the work that the worker does for the employer, as regards any part of the worker’s work pattern,
  - (b) the change relates to the worker’s work pattern, and
  - (c) the worker’s purpose in applying for the change is to get a more predictable work pattern.

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(But see section 80IB concerning restrictions on the making of an application.)

- (2) The work pattern of a worker is made up of—
  - (a) the number of hours that the worker works,
  - (b) the days of the week on which, and the times on those days when, the worker works,
  - (c) the period for which the worker is contracted to work, and
  - (d) such other aspects of the worker’s terms and conditions of employment as the Secretary of State may specify by regulations.
- (3) If a worker works under a worker’s contract with a fixed term of 12 months or less—
  - (a) there is to be regarded as being a lack of predictability as regards the period for which the worker is contracted to work, and
  - (b) the worker’s purpose in applying for a change to the duration of the contract is to be regarded as being to get a more predictable work pattern if the change would result in a longer fixed term or the removal of the provision in the worker’s contract restricting its duration.
- (4) An application under this section must—
  - (a) state that it is such an application, and
  - (b) specify the change applied for and the date on which it is proposed the change should become effective.
- (5) The Secretary of State may by regulations make provision about—
  - (a) the form of applications under this section, and
  - (b) when such an application is to be taken to be made.
- (6) Regulations under this section may make different provision for different cases.

#### **80IB Restrictions on the making of an application under section 80IA**

- (1) An agency worker may not make an application under section 80IA (see instead Chapter 2 of this Part).
- (2) “Agency worker” has the same meaning in this section as in the Agency Workers Regulations 2010 (S.I. 2010/93) (see regulation 3 of the Regulations).
- (3) A worker may only make an application under section 80IA to the worker’s employer if the worker was employed by the same employer (whether or not under the same worker’s contract) at some point during the month immediately preceding such period, ending with the making of the application, as is specified in regulations made by the Secretary of State.
- (4) Section 80IA is subject to section 80IM (which restricts the right to make multiple applications under this Part).
- (5) Regulations under this section may make different provision for different cases.
- (6) “Work pattern” has the same meaning in this section as in section 80IA (see section 80IA(2)).

### **80IC Employer’s duties in relation to an application under section 80IA**

- (1) An employer to whom an application under section 80IA is made—
  - (a) must deal with the application in a reasonable manner,
  - (b) must notify the worker of the decision on the application within the decision period, and
  - (c) may only reject the application because the employer considers that one or more of the following grounds applies—
    - (i) the burden of additional costs,
    - (ii) detrimental effect on ability to meet customer demand,
    - (iii) detrimental impact on the recruitment of staff,
    - (iv) detrimental impact on other aspects of the employer’s business,
    - (v) insufficiency of work during the periods the worker proposes to work,
    - (vi) planned structural changes, and
    - (vii) such other grounds as the Secretary of State may specify by regulations.
- (2) Subsection (1) applies even if the worker ceases to be employed by the employer during the decision period.
- (3) In such a case—
  - (a) the employer may also reject the application on the ground that—
    - (i) the worker terminated the worker’s contract (with or without notice) other than in circumstances in which the worker was entitled to terminate it without notice by reason of the employer’s conduct;
    - (ii) the employer terminated the worker’s contract (with or without notice) and the employer’s reason for doing so (or, if more than one, the employer’s principal reason for doing so) is a qualifying reason and in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonably in treating the reason (or the principal reason) as a sufficient reason for terminating the contract, and
  - (b) if the employer grants the application, the employer must, before the end of the offer period, offer the worker a new worker’s contract with terms and conditions that—
    - (i) taken as a whole, are not less favourable than the terms and conditions of the worker’s contract at the time the application was made, and
    - (ii) reflect the change relating to the worker’s work pattern that was applied for.
- (4) In subsection (3)(a)(ii) “qualifying reason” means—
  - (a) a reason that fulfils the requirement in section 98(1)(b), or
  - (b) in relation to a worker who was not an employee immediately before ceasing to be employed, a reason that would fulfil the requirement in

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section 98(1)(b) if references in that provision and in section 98(2) and (3) to an employee were references to a worker.

- (5) Regulations under subsection (1)(c)(vii) may provide for a modified version of a specified ground to apply in cases where the worker ceases to be employed by an employer.
- (6) If an employer allows a worker to appeal a decision to reject an application, the reference in subsection (1)(b) 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.
- (7) For the purposes of subsections (1)(b), (2) and (5) the decision period applicable to a worker’s application under section 80IA is the period of one month beginning with the date on which the application is made.
- (8) For the purposes of subsection (3)(b) the offer period applicable to a worker’s application under section 80IA is the period of two weeks beginning with date on which the employer grants the application.
- (9) An application under section 80IA is to be treated as having been withdrawn by the worker if—
  - (a) the worker 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 worker to appeal a decision to reject an application or to make a further appeal, the worker 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 worker that the employer has decided to treat that conduct of the worker as a withdrawal of the application.
- (10) “Work pattern” has the same meaning in this section as in section 80IA (see section 80IA(2)).

### **80ID Complaints to employment tribunals**

- (1) A worker who makes an application under section 80IA may present a complaint to an employment tribunal—
  - (a) that the worker’s employer has failed in relation to the application to comply with section 80IC(1) (as read, where applicable, with section 80IC(3)(a)),
  - (b) that the worker’s employer has failed, having granted the application, to comply with section 80IC(3)(b),
  - (c) that a decision by the employer to reject the application was based on incorrect facts, or
  - (d) that the employer’s notification under section 80IC(9) was given in circumstances that did not satisfy one of the requirements in section 80IC(9)(a) and (b).

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- (2) No complaint under subsection (1)(a), (b) or (c) may be made in respect of an application which has been disposed of by agreement or withdrawn.
- (3) In the case of an application which has not been disposed of by agreement or withdrawn—
  - (a) no complaint under subsection (1)(a) or (c) may be made until—
    - (i) the employer notifies the worker of the employer’s decision on the application, or
    - (ii) if the decision period applicable to the application (see section 80IC(7)) comes to an end without the employer notifying the worker of the employer’s decision on the application, the end of the decision period;
  - (b) no complaint under subsection (1)(b) may be made until—
    - (i) the employer offers the worker a new worker’s contract, or
    - (ii) if the offer period applicable to the application (see section 80IC(8)) comes to an end without the employer offering the worker a new worker’s contract, the end of the offer period.
- (4) If an employer allows a worker to appeal a decision to reject an application, subsection (3)(a) applies as if the references to the employer notifying the worker of the employer’s decision on the application were references to the employer notifying the worker of the employer’s decision on the appeal or, if more than one appeal is allowed, the decision on the final appeal.
- (5) A complaint under subsection (1)(d) may be made as soon as the notification under section 80IC(9) complained of is given to the worker.
- (6) An employment tribunal may 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.
- (7) In subsection (6)(a), the reference to the relevant date is a reference to the first date on which the worker may make a complaint under subsection (1)(a), (b), (c) or (d) (as the case may be).
- (8) Section 207A(3) and section 207B (extension of time limits in certain circumstances) apply for the purposes of subsection (6)(a).

### **80IE Remedies**

- (1) Where an employment tribunal finds a complaint under section 80ID well-founded it must make a declaration to that effect and may—
  - (a) make an order for reconsideration of the application, and
  - (b) make an award of compensation to be paid by the employer to the worker.

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- (2) Where an employment tribunal makes an order under subsection (1)(a), section 80IC is to apply as if the application had been made on the date of the order.
  - (3) The amount of compensation under subsection (1)(b) is to be such amount, not exceeding the permitted maximum, as the tribunal considers just and equitable in all the circumstances.
  - (4) For the purposes of subsection (3), the permitted maximum is such number of weeks' pay as the Secretary of State may specify by regulations.
  - (5) In calculating a week's pay for the purposes of determining the permitted maximum for an award of compensation to a worker who is not an employee, Chapter 2 of Part 14 is to apply as if—
    - (a) references in that Chapter and in section 234 (normal working hours) to an employee were references to a worker;
    - (b) references in that Chapter and in section 234 to a contract of employment were references to a worker's contract;
    - (c) "week" meant—
      - (i) in relation to a worker whose remuneration is calculated weekly by a week ending with a day other than a Saturday, a week ending with that other day, and
      - (ii) in relation to any other worker, a week ending with Saturday."
- (5) The Schedule contains amendments of other legislation.