
STATUTORY INSTRUMENTS

2004 No. 752

The Employment Act 2002 (Dispute Resolution) Regulations 2004

Circumstances in which parties are treated as complying with the dismissal and disciplinary procedures

5.—(1) Where—

- (a) either of the dismissal and disciplinary procedures is the applicable statutory procedure in relation to a dismissal,
- (b) the employee presents an application for interim relief to an employment tribunal pursuant to section 128 of the 1996 Act (interim relief pending determination of complaint) in relation to his dismissal, and
- (c) at the time the application is presented, the requirements of paragraphs 1 and 2 or, as the case may be, paragraph 4 of Schedule 2 have been complied with but the requirements of paragraph 3 or 5 of Schedule 2 have not,

the parties shall be treated as having complied with the requirements of paragraph 3 or 5 of Schedule 2.

(2) Where either of the dismissal and disciplinary procedures is the applicable statutory procedure in relation to the dismissal of an employee or to relevant disciplinary action taken against an employee but—

- (a) at the time of the dismissal or the taking of the action an appropriate procedure exists,
- (b) the employee is entitled to appeal under that procedure against his dismissal or the relevant disciplinary action taken against him instead of appealing to his employer, and
- (c) the employee has appealed under that procedure,

the parties shall be treated as having complied with the requirements of paragraph 3 or 5 of Schedule 2.

(3) For the purposes of paragraph (2) a procedure is appropriate if it—

- (a) gives the employee an effective right of appeal against dismissal or disciplinary action taken against him, and
- (b) operates by virtue of a collective agreement made between two or more employers or an employers' association and one or more independent trade unions.