
STATUTORY INSTRUMENTS

2004 No. 752

The Employment Act 2002 (Dispute Resolution) Regulations 2004

Circumstances in which parties are treated as complying with the grievance procedures

7.—(1) Where the grievance is that the employer has taken or is contemplating taking relevant disciplinary action against the employee and one of the reasons for the grievance is—

- (a) that the relevant disciplinary action amounted to or, if it took place, would amount to unlawful discrimination, or
- (b) that the grounds on which the employer took the action or is contemplating taking it were or are unrelated to the grounds on which he asserted that he took the action or is asserting that he is contemplating taking it,

the standard grievance procedure or, as the case may be, modified grievance procedure shall apply but the parties shall be treated as having complied with the applicable procedure if the employee complies with the requirement in paragraph (2).

(2) The requirement is that the employee must set out the grievance in a written statement and send the statement or a copy of it to the employer—

- (a) where either of the dismissal and disciplinary procedures is being followed, before the meeting referred to in paragraph 3 or 5 (appeals under the dismissal and disciplinary procedures) of Schedule 2, or
- (b) where neither of those procedures is being followed, before presenting any complaint arising out of the grievance to an employment tribunal.

(3) In paragraph (1)(a) “unlawful discrimination” means an act or omission in respect of which a right of complaint lies to an employment tribunal under any of the following tribunal jurisdictions (specified in Schedules 3 and 4)—

- section 2 of the Equal Pay Act 1970⁽¹⁾;
- section 63 of the Sex Discrimination Act 1975⁽²⁾;
- section 54 of the Race Relations Act 1976⁽³⁾;
- section 17A of the Disability Discrimination Act 1995⁽⁴⁾;
- regulation 28 of the Employment Equality (Religion or Belief) Regulations 2003⁽⁵⁾;
- regulation 28 of the Employment Equality (Sexual Orientation) Regulations 2003⁽⁶⁾.

(1) 1970 c. 41.

(2) 1975 c. 65.

(3) 1976 c. 74.

(4) 1995 c. 50. Section 17A was inserted by S.I.2003/1673, regulations 3(1) and 9(1); the new section replaced section 8 of the 1995 Act and contained amendments.

(5) S.I. 2003/1660.

(6) S.I. 2003/1661.