



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART X

#### UNFAIR DISMISSAL

#### CHAPTER II

##### REMEDIES FOR UNFAIR DISMISSAL

##### *Orders for reinstatement or re-engagement*

#### **117 Enforcement of order and compensation.**

- (1) An [<sup>F1</sup>employment tribunal] shall make an award of compensation, to be paid by the employer to the employee, if—
  - (a) an order under section 113 is made and the complainant is reinstated or re-engaged, but
  - (b) the terms of the order are not fully complied with.
- (2) Subject to section 124 <sup>F2</sup>. . ., the amount of the compensation shall be such as the tribunal thinks fit having regard to the loss sustained by the complainant in consequence of the failure to comply fully with the terms of the order.
- [<sup>F3</sup>(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.]
- (3) Subject to subsections (1) and (2) <sup>F2</sup>. . ., if an order under section 113 is made but the complainant is not reinstated or re-engaged in accordance with the order, the tribunal shall make—
  - (a) an award of compensation for unfair dismissal (calculated in accordance with sections 118 to [<sup>F4</sup>126]), and

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- (b) except where this paragraph does not apply, an additional award of compensation of [<sup>F5</sup>an amount not less than twenty-six nor more than fifty-two weeks' pay],  
to be paid by the employer to the employee.
- (4) Subsection (3)(b) does not apply where—
- (a) the employer satisfies the tribunal that it was not practicable to comply with the order,<sup>F6</sup> . . .
- <sup>F6</sup>(b) . . . . .
- <sup>F7</sup>(5) . . . . .
- <sup>F7</sup>(6) . . . . .
- (7) Where in any case an employer has engaged a permanent replacement for a dismissed employee, the tribunal shall not take that fact into account in determining for the purposes of subsection (4)(a) whether it was practicable to comply with the order for reinstatement or re-engagement unless the employer shows that it was not practicable for him to arrange for the dismissed employee's work to be done without engaging a permanent replacement.
- (8) Where in any case an [<sup>F8</sup>employment tribunal] finds that the complainant has unreasonably prevented an order under section 113 from being complied with, in making an award of compensation for unfair dismissal <sup>F9</sup>. . . it shall take that conduct into account as a failure on the part of the complainant to mitigate his loss.

#### Textual Amendments

- F1** Words in s. 117(1)(8) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F2** Words in s. 117(2)(3) repealed (25.10.1999) by 1999 c. 26, s. 44, **Sch. 9(11)**; S.I. 1999/2830, art. 2(3), **Sch. 2 Pt. I**
- F3** S. 117(2A) inserted (1.10.2004) by **Employment Act 2002 (c. 22)**, ss. 34(4), 55(2); S.I. 2004/1717, **art. 2(2)** (subject to **art. 3**)
- F4** Word in s. 117(3)(a) substituted (1.10.2004) by **Employment Act 2002 (c. 22)**, ss. 53, 55(2), **Sch. 7 para. 37**; S.I. 2004/2185, **art. 2**
- F5** Words in s. 117(3)(b) substituted (25.10.1999) by 1999 c. 26, s. 33(2); S.I. 1999/2830, art. 2(1), **Sch. 1 Pt. I** (with **Sch. 3 para. 8**)
- F6** S. 117(4)(b) and the preceding word “or” repealed (25.10.1999) by 1999 c. 26, ss. 33(1)(a), 44, **Sch. 9(10)**; S.I. 1999/2830, art. 2(1)(3), **Sch. 1 Pt. I**, **Sch. 2 Pt. I** (with **Sch. 3 para. 8**)
- F7** S. 117(5)(6) repealed (25.10.1999) by 1999 c. 26, ss. 33(2), 44, **Sch. 9(10)**; S.I. 1999/2830, art. 2(1)(3), **Sch. 1 Pt. I**, **Sch. 2 Pt. I** (with **Sch. 3 para. 8**)
- F8** S. 117(6)(c) and preceding word “and” inserted (1.8.1998) by 1998 c. 8, s. 14(1); S.I. 1998/1658, art. 2(1), **Sch. 1** (with **art. 3(7)**)
- F9** Words in s. 117(8) repealed (1.8.1998) by 1998 c. 8, s. 15, **Sch. 2**; S.I. 1998/1658, art. 2(1), **Sch. 1**

#### Modifications etc. (not altering text)

- C1** S. 117: power to modify conferred (1.8.1998) by 1992 c. 52, s. 212A(8)(a) (as inserted (1.8.1998) by 1998 c. 8, s. 7; S.I. 1998/1658, art. 2(1), **Sch. 1**)
- S. 117 applied (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 160**
- S. 117-127A applied (with modifications) (2.7.1999) by S.I. 1999/1548, **reg. 3**
- S. 117 modified (21.5.2001) by S.I. 2001/1185, **art. 5**

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- C2** S. 117 applied (6.4.2004) by [The ACAS Arbitration Scheme \(Great Britain\) Order 2004 \(S.I. 2004/753\)](#), arts. 1(1), 2, 3, **Sch. para. 185**  
S. 117 applied (with modifications) (6.4.2004) by [The ACAS Arbitration Scheme \(Great Britain\) Order 2004 \(S.I. 2004/753\)](#), arts. 1(1), 6

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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. 80A(6A) inserted by [2024 c. 17 s. 1\(2\)](#)
- s. 80B(6C) inserted by [2024 c. 17 s. 1\(3\)](#)
- 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. 80D(1A) inserted by [2024 c. 17 s. 1\(4\)\(a\)](#)
- s. 80D(3) inserted by [2024 c. 17 s. 1\(4\)\(c\)](#)
- 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. 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](#)