



Employment Rights Act 1996

1996 CHAPTER 18

[^{F1}PART 8A

FLEXIBLE WORKING

Textual Amendments

F1 Pt. 8A inserted (6.4.2003) by [Employment Act 2002 \(c. 22\), s. 47\(2\)](#); [S.I. 2002/2866, art. 2\(3\)](#), Sch. 1 Pt. 3

80F Statutory right to request contract variation

(1) A qualifying employee may apply to his employer for a change in his terms and conditions of employment if—

- (a) the change relates to—
 - (i) the hours he is required to work,
 - (ii) the times when he is required to work,
 - (iii) where, as between his home and a place of business of his employer, he is required to work, or
 - (iv) such other aspect of his terms and conditions of employment as the Secretary of State may specify by regulations, ^{F2} ...

^{F3}(b)

(2) An application under this section must—

- (a) state that it is such an application,
- (b) specify the change applied for and the date on which it is proposed the change should become effective, [^{F4}and]
- (c) explain what effect, if any, the employee thinks making the change applied for would have on his employer and how, in his opinion, any such effect might be dealt with, ^{F5} ...

^{F5}(d)

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- (3) ^{F6}
- (4) If an employee has made an application under this section, he may not make a further application under this section to the same employer before the end of the period of twelve months beginning with the date on which the previous application was made.
- (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 as made.
- (6) ^{F6}
- (7) ^{F6}
- (8) For the purposes of this section, an employee is—
- (a) a qualifying employee if he—
 - (i) satisfies such conditions as to duration of employment as the Secretary of State may specify by regulations, and
 - (ii) is not an agency worker [^{F7}(other than an agency worker who is returning to work from a period of parental leave under regulations under section 76)];
 - (b) an agency worker if he is supplied by a person (“ the agent ”) to do work for another (“ the principal ”) under a contract or other arrangement made between the agent and the principal.

[Regulations under this section may make different provision for different cases.

^{F8}(9)
^{F9}(10)

Textual Amendments

- F2** Word in s. 80F(1)(a)(iv) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 131(2)(a)**, 139(6); S.I. 2014/1640, art. 3(1)(k) (with art. 10)
- F3** S. 80F(1)(b) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 131(1)**, 139(6); S.I. 2014/1640, art. 3(1)(k) (with art. 10)
- F4** Word in s. 80F(2)(b) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 131(2)(b)**, 139(6); S.I. 2014/1640, art. 3(1)(k) (with art. 10)
- F5** S. 80F(2)(d) and word preceding it repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 131(2)(c)**, 139(6); S.I. 2014/1640, art. 3(1)(k) (with art. 10)
- F6** S. 80F(3)(6)(7) repealed (6.4.2007) by [Work and Families Act 2006 \(c. 18\)](#), **ss. 12(4)**, 15, 19, **Sch. 2**; S.I. 2006/1682, **art. 4**
- F7** Words in s. 80F(8)(a)(ii) inserted (8.3.2013) by [The Parental Leave \(EU Directive\) Regulations 2013 \(S.I. 2013/283\)](#), **regs. 1, 2**
- F8** S. 80F(9)(10) inserted (6.4.2007) by [Work and Families Act 2006 \(c. 18\)](#), **ss. 12(5)**, 19; S.I. 2006/1682, **art. 4(a)**
- F9** S. 80F(10) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 131(2)(d)**, 139(6); S.I. 2014/1640, art. 3(1)(k) (with art. 10)

80G Employer’s duties in relation to application under section 80F

- (1) An employer to whom an application under section 80F is made—

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- [^{F10}(a) shall deal with the application in a reasonable manner,
- (aa) shall notify the employee of the decision on the application within the decision period, and]
- (b) shall only refuse the application because he 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) inability to re-organise work among existing staff,
 - (iv) inability to recruit additional staff,
 - (v) detrimental impact on quality,
 - (vi) detrimental impact on performance,
 - (vii) insufficiency of work during the periods the employee proposes to work,
 - (viii) planned structural changes, and
 - (ix) such other grounds as the Secretary of State may specify by regulations.

[If an employer allows an employee to appeal a decision to reject an application, the ^{F11}(1A) reference in subsection (1)(aa) 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.

(1B) For the purposes of subsection (1)(aa) the decision period applicable to an employee's application under section 80F is—

- (a) the period of three months beginning with the date on which the application is made, or
- (b) such longer period as may be agreed by the employer and the employee.

(1C) An agreement to extend the decision period in a particular case may be made—

- (a) before it ends, or
- (b) with retrospective effect, before the end of a period of three months beginning with the day after that on which the decision period that is being extended came to an end.]

[An application under section 80F is to be treated as having been withdrawn by the ^{F12}(1D) employee if—

- (a) the employee 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 employee to appeal a decision to reject an application or to make a further appeal, the employee 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 employee that the employer has decided to treat that conduct of the employee as a withdrawal of the application.]

^{F13}(2)

^{F13}(3)

^{F13}(4)

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Textual Amendments

- F10** S. 80G(1)(a)(aa) substituted for s. 80G(1)(a) (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 132(2)**, 139(6); S.I. 2014/1640, art. 3(1)(l) (with art. 10)
- F11** S. 80G(1A)-(1C) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 132(3)**, 139(6); S.I. 2014/1640, art. 3(1)(l) (with art. 10)
- F12** S. 80G(1D) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 132(4)**, 139(6); S.I. 2014/1640, art. 3(1)(l) (with art. 10)
- F13** S. 80G(2)-(4) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 132(5)(b)**, 139(6); S.I. 2014/1640, art. 3(1)(l) (with art. 10)

80H Complaints to employment tribunals

- (1) An employee who makes an application under section 80F may present a complaint to an employment tribunal—
- (a) that his employer has failed in relation to the application to comply with section 80G(1),^{F14} ...
 - (b) that a decision by his employer to reject the application was based on incorrect facts^{F15}, or
 - ^{F15}(c) [that the employer's notification under section 80G(1D) was given in circumstances that did not satisfy one of the requirements in section 80G(1D) (a) and (b)].
- (2) No complaint [^{F16}under subsection (1)(a) or (b)] may be made in respect of an application which has been disposed of by agreement or withdrawn.
- ^{F17}(3) In the case of an application which has not been disposed of by agreement or withdrawn, no complaint under subsection (1)(a) or (b) may be made until—
- (a) the employer notifies the employee of the employer's decision on the application, or
 - (b) if the decision period applicable to the application (see section 80G(1B)) comes to an end without the employer notifying the employee of the employer's decision on the application, the end of the decision period.
- (3A) If an employer allows an employee to appeal a decision to reject an application, a reference in other subsections of this section to the decision on the application is a reference to the decision on the appeal or, if more than one appeal is allowed, the decision on the final appeal.
- (3B) If an agreement to extend the decision period is made as described in section 80G(1C) (b), subsection (3)(b) is to be treated as not allowing a complaint until the end of the extended period.]
- [A complaint under subsection (1)(c) may be made as soon as the notification under ^{F18}(3C) section 80G(1D) complained of is given to the employee.]
- ^{F19}(4)
- (5) An employment tribunal shall 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

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- (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.
- (6) In subsection (5)(a), the reference to the [F20]relevant date is a reference to the first date on which the employee may make a complaint under subsection (1)(a), (b) or (c), as the case may be.]
- [Section 207A(3) (extension because of mediation in certain European cross-border F21(7) disputes) [F22]and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply] for the purposes of subsection (5)(a).]

Textual Amendments

- F14** Word in s. 80H(1) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 133\(2\)\(a\), 139\(6\); S.I. 2014/1640, art. 3\(1\)\(m\)](#) (with art. 10)
- F15** S. 80H(1)(c) and word preceding it inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 133\(2\)\(b\), 139\(6\); S.I. 2014/1640, art. 3\(1\)\(m\)](#) (with art. 10)
- F16** Words in s. 80H(2) substituted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 133\(3\), 139\(6\); S.I. 2014/1640, art. 3\(1\)\(m\)](#) (with art. 10)
- F17** S. 80H(3)-(3B) substituted for s. 80H(3) (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 133\(4\), 139\(6\); S.I. 2014/1640, art. 3\(1\)\(m\)](#) (with art. 10)
- F18** S. 80H(3C) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 133\(5\), 139\(6\); S.I. 2014/1640, art. 3\(1\)\(m\)](#) (with art. 10)
- F19** S. 80H(4) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 132\(5\)\(c\), 139\(6\); S.I. 2014/1640, art. 3\(1\)\(l\)](#) (with art. 10)
- F20** Words in s. 80H(6) substituted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 133\(6\), 139\(6\); S.I. 2014/1640, art. 3\(1\)\(m\)](#) (with art. 10)
- F21** S. 80H(7) inserted (20.5.2011 with application as mentioned in regs. 3 and 4 of the amending S.I.) by [The Cross-Border Mediation \(EU Directive\) Regulations 2011 \(S.I. 2011/1133\), regs. 2, 45](#)
- F22** Words in s. 80H(7) substituted (6.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 2 para. 32; S.I. 2014/253, art. 3\(g\)](#)

80I Remedies

- (1) Where an employment tribunal finds a complaint under section 80H well-founded it shall make a declaration to that effect and may—
- make an order for reconsideration of the application, and
 - make an award of compensation to be paid by the employer to the employee.
- (2) The amount of compensation shall be such amount, not exceeding the permitted maximum, as the tribunal considers just and equitable in all the circumstances.
- (3) For the purposes of subsection (2), the permitted maximum is such number of weeks' pay as the Secretary of State may specify by regulations.
- (4) Where an employment tribunal makes an order under subsection (1)(a), section 80G^{F23}... shall apply as if the application had been made on the date of the order.]

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Textual Amendments

F23 Words in s. 80I(4) repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 132\(5\)\(d\), 139\(6\)](#); [S.I. 2014/1640](#), [art. 3\(1\)\(l\)](#) (with [art. 10](#))

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