



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART X

#### UNFAIR DISMISSAL

#### CHAPTER II

##### REMEDIES FOR UNFAIR DISMISSAL

##### *Introductory*

#### 111 Complaints to [<sup>F1</sup>employment tribunal].

- (1) A complaint may be presented to an [<sup>F1</sup>employment tribunal] against an employer by any person that he was unfairly dismissed by the employer.
- (2) [<sup>F2</sup>Subject to the following provisions of this section], an [<sup>F1</sup>employment tribunal] shall not consider a complaint under this section unless it is presented to the tribunal—
  - (a) before the end of the period of three months beginning with the effective date of termination, 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.

[<sup>F3</sup>(2A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).]

- (3) Where a dismissal is with notice, an [<sup>F1</sup>employment tribunal] shall consider a complaint under this section if it is presented after the notice is given but before the effective date of termination.
- (4) In relation to a complaint which is presented as mentioned in subsection (3), the provisions of this Act, so far as they relate to unfair dismissal, have effect as if—

*Status: Point in time view as at 06/08/2022.*

*Changes to legislation: Employment Rights Act 1996, Cross Heading: Introductory is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) references to a complaint by a person that he was unfairly dismissed by his employer included references to a complaint by a person that his employer has given him notice in such circumstances that he will be unfairly dismissed when the notice expires,
- (b) references to reinstatement included references to the withdrawal of the notice by the employer,
- (c) references to the effective date of termination included references to the date which would be the effective date of termination on the expiry of the notice, and
- (d) references to an employee ceasing to be employed included references to an employee having been given notice of dismissal.

- [<sup>F4</sup>(5) Where the dismissal is alleged to be unfair by virtue of section 104F (blacklists),
- (a) subsection (2)(b) does not apply, and
  - (b) an employment tribunal may consider a complaint that is otherwise out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.]

#### Textual Amendments

- F1** Words in s. 111(1)-(3) and sidenote to s. 111 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. 111(2) substituted (2.3.2010) by The Employment Relations Act 1999 (Blacklists) Regulations 2010 (S.I. 2010/493), reg. 12(5)(a)
- F3** S. 111(2A) substituted (31.12.2020) by The Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 (S.I. 2019/469), reg. 1(1), Sch. 1 para. 12(23) (with reg. 5) (as amended by S.I. 2020/1493, regs. 1(1), 4(5)(6)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 111(5) inserted (2.3.2010) by The Employment Relations Act 1999 (Blacklists) Regulations 2010 (S.I. 2010/493), reg. 12(5)(b)

#### [<sup>F5</sup>111A Confidentiality of negotiations before termination of employment

- (1) Evidence of pre-termination negotiations is inadmissible in any proceedings on a complaint under section 111.

This is subject to subsections (3) to (5).

- (2) In subsection (1) “pre-termination negotiations” means any offer made or discussions held, before the termination of the employment in question, with a view to it being terminated on terms agreed between the employer and the employee.
- (3) Subsection (1) does not apply where, according to the complainant's case, the circumstances are such that a provision (whenever made) contained in, or made under, this or any other Act requires the complainant to be regarded for the purposes of this Part as unfairly dismissed.
- (4) In relation to anything said or done which in the tribunal's opinion was improper, or was connected with improper behaviour, subsection (1) applies only to the extent that the tribunal considers just.
- (5) Subsection (1) does not affect the admissibility, on any question as to costs or expenses, of evidence relating to an offer made on the basis that the right to refer to it on any such question is reserved.]

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#### Textual Amendments

- F5** S. 111A inserted (29.7.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 14**, 103(3) (with s. 24(4)); S.I. 2013/1648, art. 2(a)

## 112 The remedies: orders and compensation.

- (1) This section applies where, on a complaint under section 111, an [<sup>F6</sup>employment tribunal] finds that the grounds of the complaint are well-founded.
- (2) The tribunal shall—
  - (a) explain to the complainant what orders may be made under section 113 and in what circumstances they may be made, and
  - (b) ask him whether he wishes the tribunal to make such an order.
- (3) If the complainant expresses such a wish, the tribunal may make an order under section 113.
- (4) If no order is made under section 113, the tribunal shall make an award of compensation for unfair dismissal (calculated in accordance with sections 118 to [<sup>F7</sup>126]<sup>F8</sup>. . . ) to be paid by the employer to the employee.

[<sup>F9</sup>(5) <sup>F10</sup> . . . . . ]

(6) <sup>F10</sup> . . . . . ]

#### Textual Amendments

- F6** Words in s. 112(1) 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**
- F7** Word in s. 112(4) substituted (1.10.2004) by [Employment Act 2002 \(c. 22\)](#), ss. 53, 55(2), **Sch. 7 para. 36**; S.I. 2004/2185, art. 2
- F8** Words in s. 112(4) repealed (25.10.1999) by [1999 c. 26, s. 44, Sch. 9\(11\)](#); S.I. 1999/2830, art. 2(3), **Sch. 2 Pt. I**
- F9** S. 112(5)(6) inserted (1.10.2004) by [Employment Act 2002 \(c. 22\)](#), **ss. 34(3)**, 55(2); S.I. 2004/1717, art. 2(2) (subject to art. 3)
- F10** S. 112(5)(6) omitted (6.4.2011) by virtue of [The Employment Equality \(Repeal of Retirement Age Provisions\) Regulations 2011 \(S.I. 2011/1069\)](#), **reg. 3(6)** (with regs. 5-7, 9)

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