



Employment Rights Act 1996

1996 CHAPTER 18

PART X **E+W+S**

UNFAIR DISMISSAL

CHAPTER I **E+W+S**

RIGHT NOT TO BE UNFAIRLY DISMISSED

Fairness

^{x1}104 Assertion of statutory right. **E+W+S**

- (1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee—
 - (a) brought proceedings against the employer to enforce a right of his which is a relevant statutory right, or
 - (b) alleged that the employer had infringed a right of his which is a relevant statutory right.
- (2) It is immaterial for the purposes of subsection (1)—
 - (a) whether or not the employee has the right, or
 - (b) whether or not the right has been infringed;but, for that subsection to apply, the claim to the right and that it has been infringed must be made in good faith.
- (3) It is sufficient for subsection (1) to apply that the employee, without specifying the right, made it reasonably clear to the employer what the right claimed to have been infringed was.
- (4) The following are relevant statutory rights for the purposes of this section—

Status: Point in time view as at 01/02/2006. This version of this provision has been superseded.

Changes to legislation: Employment Rights Act 1996, Section 104 is up to date with all changes known to be in force on or before 03 October 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) any right conferred by this Act for which the remedy for its infringement is by way of a complaint or reference to an [^{F1}employment tribunal],
- (b) the right conferred by section 86 of this Act, ^{F2}. . .
- (c) the rights conferred by sections 68, 86, [^{F3}145A, 145B,] 146, 168, [^{F4}168A,] 169 and 170 of the Trade Union and Labour Relations (Consolidation) Act 1992 (deductions from pay, union activities and time off) [^{F5}and
- [^{F6F5}(d) the rights conferred by the Working Time Regulations 1998, the Merchant Shipping (Working Time: Inland Waterway) Regulations 2003 or the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.]]

[^{F7}(5) In this section any reference to an employer includes, where the right in question is conferred by section 63A, the principal (within the meaning of section 63A(3)).]

Editorial Information

- X1** The insertion of the new heading "Other dismissals" in Pt. X Ch. I on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Textual Amendments

- F1** Words in s. 104(4)(a) 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** Word in s. 104(4)(b) omitted (1.10.1998) by virtue of S.I. 1998/1833, **reg. 32(2)(a)**
- F3** Words in s. 104(4)(c) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 31**; S.I. 2004/2566, **art. 3(b)** (subject to arts. 5-8)
- F4** Word in s. 104(4)(c) inserted (27.4.2003) by Employment Act 2002 (c. 22), ss. 53, 55(2), **Sch. 7 para. 34**; S.I. 2003/1190, **art. 2(2)(c)**
- F5** S. 104(4)(d) and preceding word "and" inserted (1.10.1998) by S.I. 1998/1833, **reg. 32(2)(b)**
- F6** S. 104(4)(d) substituted (16.18.2004) by The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 (S.I. 2004/1713), regs. 1, 22, **Sch. 2 para. 2(4)**
- F7** S. 104(5) inserted (1.9.1999) by 1998 c. 30, s. 44(1), **Sch. 3 para. 13** (with s. 42(8)); S.I. 1999/987, **art. 2**

Status:

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