



Employment Rights Act 1996

1996 CHAPTER 18

PART V

PROTECTION FROM SUFFERING DETRIMENT IN EMPLOYMENT

Enforcement

48 Complaints to [^{F1}employment tribunals].

- (1) An employee may present a complaint to an [^{F1}employment tribunal] that he has been subjected to a detriment in contravention of section [^{F2}43M,] 44, 45, [^{F3}46, 47 [^{F4}, 47A [^{F5}, 47C [^{F6}, 47E or 47F]]]].
- [^{F7}(1ZA) A worker may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 45A.]
- [^{F8}(1A) A worker may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 47B.]
- [^{F9}(1B) A person may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 47D.]
- (2) On such a complaint it is for the employer to show the ground on which any act, or deliberate failure to act, was done.
- (3) An [^{F1}employment tribunal] shall not consider a complaint under this section unless it is presented—
- before the end of the period of three months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them, or
 - 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.
- (4) For the purposes of subsection (3)—

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(a) where an act extends over a period, the “date of the act” means the last day of that period, and

(b) a deliberate failure to act shall be treated as done when it was decided on;

and, in the absence of evidence establishing the contrary, an employer shall be taken to decide on a failure to act when he does an act inconsistent with doing the failed act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

[^{F10}(4A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (3)(a).]

[^{F11}(5) In this section and section 49 any reference to the employer [^{F12}includes—

(a) where a person complains that he has been subjected to a detriment in contravention of section 47A, the principal (within the meaning of section 63A(3)).

[^{F13}(b) in the case of proceedings against a worker or agent under section 47B(1A), the worker or agent.]]]

Textual Amendments

- F1** Words in s. 48(1)(3) and sidenote to s. 48 substituted (1.8.1998) by 1998 c. 8 , s. 1(2)(a)(b) (with s. 16(2)); S.I. 1998/1658 , art. 2(1) , Sch. 1
- F2** Words in s. 48(1) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24) , ss. 40(2) , 59(2)-(4) ; S.I. 2005/872 , arts. 4 , 5 , Sch. (subject to arts. 6-12)
- F3** Words in s. 48(1) substituted (1.9.1999) by 1998 c. 30 , s. 44(1) , Sch. 3 para. 11(a) (with s. 42(8)); S.I. 1999/987 , art. 2
- F4** Words in s. 48(1) substituted (15.12.1999) by 1999 c. 26 , s. 9 , Sch. 4 Pt. III para. 9 ; S.I. 1999/2830 , art. 2(2) , Sch. 1 Pt. II (with Sch. 3 paras. 10 , 11)
- F5** Words in s. 48(1) substituted (6.4.2003) by Employment Act 2002 (c. 22) , s. 53 , Sch. 7 para. 27 ; S.I. 2002/2866 , art. 2(3) , Sch. 1 Pt. 3
- F6** Words in s. 48(1) substituted (6.4.2010 for certain purposes and otherwise prosp.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) , ss. 40 , 269(4) , Sch. 1 para. 2 ; S.I. 2010/303 , art. 4 , Sch. 3 (with arts. 8-14) (as amended by S.I. 2010/1151 , art. 22)
- F7** S. 48(1ZA) inserted (1.10.1998) by S.I. 1998/1833 , reg. 31(2)
- F8** S. 48(1A) inserted (2.7.1999) by 1998 c. 23 , s. 3 ; S.I. 1999/1547 , art. 2
- F9** S. 48(1B) inserted (1.9.2002 for certain purposes, otherwise prosp.) by Tax Credits Act 2002 (c. 21) , s. 27 , Sch. 1 para. 1(3) ; S.I. 2002/1727 , art. 2
- F10** S. 48(4A) 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 , 34
- F11** S. 48(5) inserted (1.9.1999) by 1998 c. 30 , s. 44(1) , Sch. 3 para. 11(b) (with s. 42(8)); S.I. 1999/987 , art. 2
- F12** Words in s. 48(5) substituted (25.6.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24) , ss. 19(2)(a) , 103(3) (with s. 24(6)); S.I. 2013/1455 , art. 2(a) (with art. 4(2))
- F13** S. 48(5)(b) inserted (25.6.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24) , ss. 19(2)(b) , 103(3) (with s. 24(6)); S.I. 2013/1455 , art. 2(a) (with art. 4(2))

Modifications etc. (not altering text)

- C1** S. 48 applied (4.9.2000) by 1999 c. 26 , s. 12(2) (with ss. 14 , 15) ; S.I. 2000/2242 , art. 2
- C2** S. 48 applied (1.10.2006) by The Employment Equality (Age) Regulations 2006 (S.I. 2006/1031) , regs. 1(1) , 47 , Sch. 6 para. 13(3) (with regs. 44-46 , Sch. 7)
- C3** S. 48 applied (6.4.2010) by The Employee Study and Training (Procedural Requirements) Regulations 2010 (S.I. 2010/155) , reg. 18(2)

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- C4** S. 48(2)-(4) applied (with modifications) (1.11.1998) by 1998 c. 39 , **s. 24(2)(a)** ; S.I. 1998/2574 , art. 2(1) , **Sch. 1**
S. 48(2)-(4) extended (with modifications) (5.10.1999) by 1999 c. 10 , ss. 7 , 20(2) , **Sch. 3 para. 2(2)(a)**
S. 48(2)-(4) applied (with modifications) (15.1.2000) by S.I. 1999/3323 , **reg. 32(2)(a)**
- C5** S. 48(2)-(4) applied (with modifications) (8.10.2004) by The European Public Limited- Liability Company Regulations 2004 (S.I. 2004/2326) , regs. 1(2) , **45(2)**
- C6** S. 48(2)-(4) applied (with modifications)(6.4.2005) by The Information and Consultation of Employees Regulations 2004 (S.I. 2004/3426) , regs.1(1) , **33(2)** (with reg. 3)
- C7** S. 48(2)-(4) applied (6.4.2006) by The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349) , regs. 1(2)(3) , 17 , **Sch. para. 8(2)**
- C8** S. 48(2)-(4) applied (18.8.2006) by The European Cooperative Society (Involvement of Employees) Regulations 2006 (S.I. 2006/2059) , regs. 1(2) , **34(2)**
- C9** S. 48(2)-(4) applied (with modifications) (prosp.) by Pensions Act 2008 (c. 30) , **ss. 56(2)** , 149(1) (with s. 56(3)-(6))
- C10** S. 48(2)-(4) applied (with modifications) (1.10.2009) by The European Public Limited- Liability Company (Employee Involvement) (Great Britain) Regulations 2009 (S.I. 2009/2401) , **reg. 32(2)** (with reg. 41)
- C11** S. 48(2)-(4) applied (with modifications) (30.6.2012) by Pensions Act 2008 (c. 30) , **ss. 56(2)** , 149(1) (with s. 56(3)-(6)); S.I. 2012/1682 , art. 2 , Sch. 2

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