

*These notes refer to the Employment Act 2002
(c.22) which received Royal Assent on 8 July 2002*

EMPLOYMENT ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Miscellaneous and General

Miscellaneous

Section 47 and Schedule 7: Flexible working

80H Complaints to employment tribunals

139. Where cases cannot be resolved in the workplace or through other alternative dispute resolution mechanisms (employees will be able to use the Advisory Conciliation and Arbitration Service binding arbitration scheme), an employee will be able to take their case to an employment tribunal.
- Subsection (1) identifies the circumstances under which an employee who has made an application under 80F may present a complaint to an employment tribunal.
 - Subsection (2) clarifies that no complaint can be presented to an employment tribunal in respect of an application which has been disposed of by agreement or withdrawn.
 - Subsection (3) clarifies that in the case of an application that has not been disposed of by agreement or withdrawn, a complaint cannot be made under this section until either the employer notifies the employee of a decision to reject the application on appeal or commits a breach of regulations under section 80G(1)(a).
 - Subsection (4) provides that a complaint cannot be made under this section in respect of a failure to comply with regulations under section 80G(2)(k), (l) or (m). This is because the regulations themselves will include a right to complain to the employment tribunal in such cases.
 - Subsections (5) and (6) explain that a complaint cannot be presented to an employment tribunal unless it is made within three months of the date on which the employee is notified of the employers' decision on the appeal, or of the breach of the regulations, unless there is an extension under subsection (3) (b). However, it allows for the cases to be heard after this time limit if the tribunal feels it was not reasonably practicable for the complaint to be made within it.