



Employment Act 2002

2002 CHAPTER 22

PART 3

DISPUTE RESOLUTION ETC.

Statutory procedures

31 Non-completion of statutory procedure: adjustment of awards

- (1) This section applies to proceedings before an employment tribunal relating to a claim under any of the jurisdictions listed in Schedule 3 by an employee.
- (2) If, in the case of proceedings to which this section applies, it appears to the employment tribunal that—
 - (a) the claim to which the proceedings relate concerns a matter to which one of the statutory procedures applies,
 - (b) the statutory procedure was not completed before the proceedings were begun, and
 - (c) the non-completion of the statutory procedure was wholly or mainly attributable to failure by the employee—
 - (i) to comply with a requirement of the procedure, or
 - (ii) to exercise a right of appeal under it,it must, subject to subsection (4), reduce any award which it makes to the employee by 10 per cent, and may, if it considers it just and equitable in all the circumstances to do so, reduce it by a further amount, but not so as to make a total reduction of more than 50 per cent.
- (3) If, in the case of proceedings to which this section applies, it appears to the employment tribunal that—
 - (a) the claim to which the proceedings relate concerns a matter to which one of the statutory procedures applies,
 - (b) the statutory procedure was not completed before the proceedings were begun, and

Status: This is the original version (as it was originally enacted).

- (c) the non-completion of the statutory procedure was wholly or mainly attributable to failure by the employer to comply with a requirement of the procedure,
- it must, subject to subsection (4), increase any award which it makes to the employee by 10 per cent and may, if it considers it just and equitable in all the circumstances to do so, increase it by a further amount, but not so as to make a total increase of more than 50 per cent.
- (4) The duty under subsection (2) or (3) to make a reduction or increase of 10 per cent does not apply if there are exceptional circumstances which would make a reduction or increase of that percentage unjust or inequitable, in which case the tribunal may make no reduction or increase or a reduction or increase of such lesser percentage as it considers just and equitable in all the circumstances.
- (5) Where an award falls to be adjusted under this section and under section 38, the adjustment under this section shall be made before the adjustment under that section.
- (6) The Secretary of State may for the purposes of this section by regulations—
- (a) make provision about the application of the statutory procedures;
 - (b) make provision about when a statutory procedure is to be taken to be completed;
 - (c) make provision about what constitutes compliance with a requirement of a statutory procedure;
 - (d) make provision about circumstances in which a person is to be treated as not subject to, or as having complied with, such a requirement;
 - (e) make provision for a statutory procedure to have effect in such circumstances as may be specified by the regulations with such modifications as may be so specified;
 - (f) make provision about when an employee is required to exercise a right of appeal under a statutory procedure.
- (7) The Secretary of State may by order—
- (a) amend Schedule 3 for the purpose of—
 - (i) adding a jurisdiction to the list in that Schedule, or
 - (ii) removing a jurisdiction from that list;
 - (b) make provision, in relation to a jurisdiction listed in Schedule 3, for this section not to apply to proceedings relating to claims of a description specified in the order;
 - (c) make provision for this section to apply, with or without modifications, as if—
 - (i) any individual of a description specified in the order who would not otherwise be an employee for the purposes of this section were an employee for those purposes, and
 - (ii) a person of a description specified in the order were, in the case of any such individual, the individual's employer for those purposes.