

SCHEDULE 6

Duty to consider working beyond retirement

Complaint to employment tribunal: failure to comply with paragraph 2

11.—(1) An employee may present a complaint to an employment tribunal that his employer has failed to comply with the duty to notify him in paragraph 2.

(2) A tribunal shall not consider a complaint under this paragraph unless the complaint is presented—

(a) before the end of the period of three months beginning with—

(i) the last day permitted to the employer by paragraph 2 for complying with the duty to notify, or

(ii) if the employee did not then know the date that would be the intended date of retirement, the first day on which he knew or should have known that date; 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.

(3) Where a tribunal finds that a complaint under this paragraph is well-founded it shall order the employer to pay compensation to the employee of such amount, not exceeding 8 weeks' pay, as the tribunal considers just and equitable in all the circumstances.

(4) Chapter 2 of Part 14 of the 1996 Act (calculation of a week's pay) shall apply for the purposes of sub-paragraph (3); and in applying that Chapter the calculation date shall be taken to be the date on which the complaint was presented or, if earlier, the operative date of termination.

(5) The limit in section 227(1) of the 1996 Act⁽¹⁾ (maximum amount of a week's pay) shall apply for the purposes of sub-paragraph (3).

(1) 1996 c. 18; the amount laid down in section 227 may be increased or decreased by Order made by the Secretary of State under section 34 of the Employment Relations Act 1999. The amount laid down in section 227 is currently £290: see S.I.2005/3352.