



Enterprise and Regulatory Reform Act 2013

2013 CHAPTER 24

PART 2

EMPLOYMENT

Unfair dismissal

13 Dismissal for political opinions: no qualifying period of employment

In section 108 of the Employment Rights Act 1996 (qualifying period of employment), after subsection (3) insert—

“(4) Subsection (1) does not apply if the reason (or, if more than one, the principal reason) for the dismissal is, or relates to, the employee’s political opinions or affiliation.”

14 Confidentiality of negotiations before termination of employment

After section 111 of the Employment Rights Act 1996 insert—

“111A Confidentiality of negotiations before termination of employment

(1) Evidence of pre-termination negotiations is inadmissible in any proceedings on a complaint under section 111.

This is subject to subsections (3) to (5).

(2) In subsection (1) “pre-termination negotiations” means any offer made or discussions held, before the termination of the employment in question, with a view to it being terminated on terms agreed between the employer and the employee.

- (3) Subsection (1) does not apply where, according to the complainant’s case, the circumstances are such that a provision (whenever made) contained in, or made under, this or any other Act requires the complainant to be regarded for the purposes of this Part as unfairly dismissed.
- (4) In relation to anything said or done which in the tribunal’s opinion was improper, or was connected with improper behaviour, subsection (1) applies only to the extent that the tribunal considers just.
- (5) Subsection (1) does not affect the admissibility, on any question as to costs or expenses, of evidence relating to an offer made on the basis that the right to refer to it on any such question is reserved.”

15 Power by order to increase or decrease limit of compensatory award

- (1) The Secretary of State may by order made by statutory instrument amend section 124 of the Employment Rights Act 1996 (limit of compensatory award etc) so as to vary the limit imposed for the time being by subsection (1) of that section.
- (2) The limit as so varied may be—
 - (a) a specified amount, or
 - (b) the lower of—
 - (i) a specified amount, and
 - (ii) a specified number multiplied by a week’s pay of the individual concerned.
- (3) Different amounts may be specified by virtue of subsection (2)(a) or (b)(i) in relation to employers of different descriptions.
- (4) An amount specified by virtue of subsection (2)(a) or (b)(i)—
 - (a) may not be less than median annual earnings;
 - (b) may not be more than three times median annual earnings.
- (5) A number specified by virtue of subsection (2)(b)(ii) may not be less than 52.
- (6) An order under this section may make consequential, supplemental, transitional, transitory or saving provision.
- (7) The consequential provision that may be made under subsection (6) includes provision inserting a reference to section 124 of the Employment Rights Act 1996 in section 226(3) of that Act (week’s pay: calculation date in unfair dismissal cases).
- (8) A statutory instrument containing an order under this section is not to be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
- (9) In this section “median annual earnings” means—
 - (a) the latest figure for median gross annual earnings of full-time employees in the United Kingdom published by the Statistics Board (disregarding any provisional figures), or
 - (b) if that figure was published by the Statistics Board more than two years before the laying of the draft of the statutory instrument in question, an estimate of the current amount of such earnings worked out in whatever way the Secretary of State thinks fit.

(10) In section 34 of the Employment Relations Act 1999 (indexation of amounts etc), after subsection (4) insert—

“(4A) A reference in this section to a sum specified in section 124(1) of the Employment Rights Act 1996 does not include anything specified by virtue of section 15(2)(b)(ii) of the Enterprise and Regulatory Reform Act 2013 (specified number multiplied by a week’s pay of the individual concerned).

(4B) As regards a sum specified in section 124(1) of the Employment Rights Act 1996, the duty under subsection (2) to make an order with effect from 6 April in a particular year does not arise where an order varying such a sum with effect from a day within 12 months before that date has been made under section 15(1) of the Enterprise and Regulatory Reform Act 2013.”